

NASSAU COUNTY



PROCUREMENT POLICY/PROCEDURE COUNTYWIDE POLICY # CE-01

May 2015

EDWARD P. MANGANO
COUNTY EXECUTIVE



OFFICE OF THE EXECUTIVE
THEODORE ROOSEVELT EXECUTIVE & LEGISLATIVE BUILDING
1550 FRANKLIN AVENUE
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VIA REGULAR AND ELECTRONIC MAIL

Department and Agency Heads
County of Nassau
Mineola, New York 11501

Re: Countywide Procurement Policy and Procedure

Dear Department/Agency Heads:

I am pleased to announce the update of Nassau County's comprehensive Countywide Procurement Policy/Procedure. As you all know, procurement of goods and services is a significant portion of Nassau County's budget. We have a duty to the County's taxpayers to ensure that the County procures goods and services efficiently and effectively, and with absolute integrity. This written Procurement Policy/Procedure will help us accomplish this objective by serving as a user-friendly reference for all individuals involved in the procurement process about what permissible methods of procurement exist and what the law and County policy require for a procurement to be completed. To this end, please ensure that all officers and employees in your organization who are involved in procurement are provided with a copy of this Policy/Procedure and become familiar with it. The publication of this policy is an important step in the right direction, but in order for it to be a real success, your full cooperation is imperative.

Procurement is a dynamic field and we expect that the laws and the County's policies governing procurement will not be static. Therefore, you are advised that this Policy/Procedure will be amended further from time to time, as necessary.

Sincerely,

EDWARD P. MANGANO
County Executive

NASSAU COUNTY



PROCUREMENT POLICY/PROCEDURE

COUNTYWIDE POLICY # CE-01

May 2015

POLICY/PROCEDURE TITLE: County-wide Procedure No.	DATE ISSUED: May, 2015
DEPARTMENT ISSUING: Executive – Compliance	AUTHORIZED and SIGNED BY:

POLICY: The Office of the Nassau County Executive recognizes the importance of publishing concise, comprehensible and accurate instructions regarding the proper methods for procuring different types of goods and services and the approvals that must be obtained in each case. It is the policy of the County Executive to ensure that all relevant personnel understand the appropriate methods of procuring any given good or service.

PURPOSE: To set forth clearly: (i) the different methods by which the County may procure goods and services, (ii) when each method may be used, and (iii) what approvals must be obtained to complete a procurement under each method. All County personnel involved in procurement are directed to familiarize themselves with this procedure and to follow its provisions. However, this Procedure does not create any legal rights or duties or causes of action. Rather, it summarizes existing state and local law and the policy and preferred practices of Nassau County. The Procedure shall be amended from time to time, as necessary, to reflect changes in the law and County policies.

SCOPE: All Nassau County Departments and Agencies

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LAWS AND REGULATIONS:

Gen. Mun. Law

- §99-h (“Participation in federal programs”)
- §99-r (“Contracts for services” purchased from a state agency, public benefit corporation or public authority)
- §101 (“Separate specifications for certain public work”) (“Wicks Law”)
- §103 (“Advertising for bids; letting of contracts; criminal conspiracies”)
- §103(3) (Purchases through other counties)
- §103-a (“Ground for cancellation of contract by municipal corporations and fire districts”)
- §103-b (“Disqualification to contract with municipal corporations and fire districts”)
- §104 (“Purchase through [State] office of general services”)
- §104-b (“Procurement policies and procedures”)
- §119-o (Intermunicipal Agreements)
- Article 18 (“Conflicts of Interest of Municipal Officers and Employees”)

Labor Law

- §220 (“Hours, wages and supplements”)

State Finance Law

- §161 (“Preferred Sources”)

Nassau County Charter

- §103(8) (“Specific powers” of County Legislature)
- §300-A (“Paperwork Reduction Act of 1999”)
- §402 (“Duties” of Comptroller)
- §702 (Office of Purchasing “Duties; competitive bids”)
- §703, (“Stores Account”)
- §704 (“Requisitions”)
- §1102 (County Attorney “General powers and duties”)
- §1209 (Contracting for engineers and technical services)
- §2151 (“Powers and duties” of Department of Information Technology”)
- §2202 (“Pecuniary interest of officers, employees or agents in execution of contracts”)
- §2206 (“Execution of contracts”)

- §2208 (“Use of patented articles by County”)
- §2218 (“Code of Ethics”)

Nassau County Administrative Code

- §7-1.0 (“Purchases involving less than five hundred dollars”)
- §7-2.0 (“Filing of contracts of purchase”)
- §7-3.0 (“Defaulters to the county”)
- §22-4.2 (“Code of Ethics”)
- §22-17 (“Screening of personnel of service providers”)

Miscellaneous Laws of Nassau County

- Title 56 (“Collective Bargaining Activities of Unions in Nassau County”)

Resolution 928 of 1993

- Provisions relating to small purchases and procurement of architectural, engineering and surveying services

Executive Order No. 1 of 1993 – in relation to personal services contracts

- Written justification required for not taking lowest cost proposer or not obtaining at least 3 proposals

DEFINITIONS

ADDENDA OR ADDENDUM - Refers to documents issued by the County that modify the terms of a Solicitation.

ADPICS – The County’s Advance Purchasing Inventory Control System used by departments to place purchase orders with the Office of Purchasing.

ADVISEMENT/STAFF SUMMARY – The advisement/staff summary is the form attached to this Policy/Procedure as Form #16. This form summarizes the purpose, terms and conditions, and price of a proposed contract, the amount requested for encumbrance, and the procurement history, including which County officials and agencies have approved it

APPROPRIATION – Sum of money from public funds set aside for a specific purpose.

BACK DROP CONTRACTS – A contract used by State OGS through which political subdivisions, including the County, may purchase certain goods or services from a pool of qualified vendors who are eligible to participate in a secondary Mini-Bid Award Process or other specified selection process.

BEST AND FINAL OFFER – In procurement of personal services, where the County decides after receiving competing proposals to hold discussions with a group of finalists, it may solicit revised proposals from the finalists, which are known as “best and final offers”.

BEST VALUE – The proposal having the “best value” in a

procurement for personal services is the one that optimizes quality, cost and efficiency among responsive and responsible proposers. To the extent that it is practicable, a determination that a proposal has the best value should have an objective basis.

BID – An offer, which upon acceptance by the County, within the allotted time, becomes a binding contract.

BID BOND – A form of bid security in which a third party agrees to be liable to pay a certain amount of money in the event that a specific bidder, if the bid is accepted, fails to accept the contract as bid. See also “Bid Deposit”, “Bid Security”, and “Forfeiture of Deposit or Bond.”

BID DEPOSIT – A sum of money or check deposited with the County to guarantee the bidder will, if selected, accept the contract or forfeit the deposit. See “Bid Bond” and “Bid Security”.

BID NUMBER – The number assigned by the Office of Purchasing to a request to purchase goods or services after the Office of Purchasing receives a requisition from a department.

BID SECURITY – A guarantee, in the form of a bond or deposit, that the bidder, if awarded a contract will accept the contract as bid. Otherwise, the bidder (in the case of a deposit) or his/her guarantor (in the case of a bond) will be liable for the amount of the bond or deposit. In general, the purpose of bid security is to assure that if the lowest bidder refuses to accept or perform the contract, the County will be paid the difference between the lowest bid and the next lowest bid. This discourages bidders from making bids that are not serious. “Bid Bond”, “Bid Deposit”, and “Forfeiture of Deposit or Bond.”

BIDDERS’ LIST – A list maintained by the Office of Purchasing setting the names and addresses of suppliers of various goods and services from who bids, proposals and quotations can be solicited. The vendors on the list have previously expressed interest in doing business with the County, but are not prequalified.

BLANKET PURCHASE CONTRACT– A contract let by the Office of Purchasing under which a vendor agrees to provide goods or a service on a purchase-on-demand basis. The contract generally establishes prices, terms, conditions and the period covered. Shipments are to me made as required by the purchaser.

CATALOG CONTRACT – A Catalog Contract is a kind of Blanket Purchase Contract, but instead of the price being fixed for the term of the contract, there is a fixed discount from the vendor’s list price. . The list price may be changed (typically at the issuance of a new catalog-probably annually) but the discount cannot change.

CHANGE ORDER – A change order is an order directing the contractor to make changes that the contract between the County and the contractor authorizes the County to order without consent of the contractor. Change orders are not subject to competitive bidding

requirements because they are not viewed as new procurements, unless the change order “so varies from the original plan or is of such importance as to constitute a new undertaking.”

CLIENT SERVICES – Services that are provided directly to members of the public.

COMPETITIVE PROCESS – A process where two or more firms are able to compete for a contract.

COMPTROLLER – The Nassau County Comptroller.

COMPTROLLER APPROVAL FORM - The form that the Comptroller’s Office requests when a contract is presented to the Comptroller for approval. A copy is attached to this Policy as Form #10.

CONFIDENTIAL INFORMATION – Any information that is available to a County employee only because of the employee’s status as a public employee and is not a matter of public knowledge or available upon request pursuant to the New York Freedom of Information Law.

CONFLICT OF INTEREST – A clash between the personal interest of a contractor, public official or employee and the apparent or actual interests of the County. Prohibited conflicts of interest are defined by section 2202 and 2218(1) of the Nassau County Charter and Article 18 of the General Municipal Law.

CONSIDERATION – Something of value given or done as recompense that is exchanged by two parties and which makes a contract binding.

CONSTRUCTION PROJECT – The building, altering or repairing, of a public structure or building, or other improvements to any public real property. Construction projects are funded out of the County’s Capital Budget funds and meet the criteria for capital eligibility under section 10.00 of the New York Local Finance Law. Routine operation, routine repair and routine maintenance of existing structures, as well as furnish and install agreements are not considered “Construction Projects”.

CONTRACT - Any written instrument or electronic document containing the elements of offer, acceptance, and consideration.

CONTRACTOR – Any individual or firm that agrees to provide goods to or perform services for the County.

COST ESTIMATE – The amount that the County projects that it will cost a contractor to deliver a good or service.

COUNTY – Nassau County

COUNTY ATTORNEY – The County Attorney of Nassau County.

COUNTY EXECUTIVE – The County Executive of Nassau County.

DCE – A Deputy County Executive of Nassau County

DESIGN SPECIFICATION – A description of what the County seeks to purchase in terms of how physically the good is to be designed and manufactured or how the service is to be delivered. See also “Functional Specification” and “Performance Specification”.

DIRECT PURCHASE ORDER – An order placed by a department through the County’s ADPICS system to request goods that previously have been procured under a Blanket Purchase Contract.

DISCLOSURE STATEMENT– A statement that discloses the names, business addresses and telephone numbers of the principals of a firm which must be submitted by bidders and proposers for any contract which requires the approval of the Legislature or Rules Committee, except that publicly traded corporations may submit instead a copy of their Securities and Exchange Commission disclosure.

DPW – The Nassau County Department of Public Works.

EMERGENCY PROCUREMENT – A purchase made without following normal competitive procedures in order to obtain goods or services to meet an urgent and unexpected requirement where health and public safety or the conservation of public resources is at risk.

ENCUMBRANCE – A reservation or commitment of budgeted funds related to unfulfilled contracts for goods or services. The purpose of encumbrance accounting is to prevent further expenditure of funds in light of commitments already made.

FIDELITY BOND – A bond that secures the County up to an amount stated in the bond for losses caused by dishonesty or infidelity on the part of a Contractor or a Contractor’s employees

FORMAL SEALED BID – A bid submitted to the County in a sealed envelope in conformance with the requirements set forth in an Invitation to Bid.

FUNCTIONAL SPECIFICATION - A description of what the County seeks to purchase in terms of what results are required. A detailed functional specification that specifies what level of performance is desired for various characteristics can also be called a “Performance Specification”.

GOODS – All types of personal property, including supplies, materials, equipment and machinery, but not including investment securities and currency.

INVITATION TO BID – A document containing Specifications for Goods and Services which the County is seeking which invites any vendors that may be able to supply the Goods or Services to submit a Formal Sealed Bid.

IT – The Department of Information Technology.

LEGISLATURE – The Nassau County Legislature.

LOWEST RESPONSIBLE BIDDER – The responsible bidder that submits the bid that is lower in its aggregate cost to the County than any other bid submitted by a responsible bidder.

MINI-BID AWARD PROCESS – An abbreviated bid and selection process sometimes required by State OGS when purchasing goods or services through OGS from its list of prequalified vendors on a Back Drop Contract.

MODEL BASE CONTRACT FOR PERSONAL SERVICES - The Model Base Form attached to this Policy as Form #14 and which has been approved by the County Attorney’s Office.

MULTIPLE AWARD – The award of a contract to two or more bidders for the same or essentially similar items. This is appropriate only in situations where the award of a single contract would be impossible or impractical and awards are limited to the least number of suppliers necessary for a workable contract.

OFFICE OF PURCHASING – The Nassau County Office of Purchasing.

OGS – The New York State Office of General Services.

OMB - The Office of Management and Budget of Nassau County.

PERFORMANCE BOND – A performance bond is a contract of guaranty executed subsequent to award by a successful bidder or proposer to protect the County from loss due to contractor inability or failure to complete the contract as agreed.

PERFORMANCE SPECIFICATION – A specification describing the performance characteristics that the County seeks in a good or service.

PERSONAL SERVICES – Services provided by independent contractors that require the consistent exercise of judgment or specialized skills. Examples of Personal Services include medicine and the medical arts, architecture, engineering, surveying, accounting, law, financial advisory and underwriting services, management consulting services, feasibility studies of a scientific or technical nature, and other services that require advanced education or professional licensing or certification.

PREFERRED SOURCE – An entity listed by the Commissioner of OGS as a vendor of one of the goods or services on its list of services and commodities provided by Preferred Sources. Pursuant to section 162 of the State Finance Law, when a good or service that is sought by the County is provided by a Preferred Source, the County must purchase it from the Preferred Source if the Preferred Source can meet the County’s requirements.

PROCUREMENT – The procedures for obtaining goods or services (but not real property), including all activities from the planning steps and preparation and processing of a requisition through receipt and

acceptance of delivery and processing of a final invoice for payment. The acts of preparing specifications, evaluating bids or proposals, making awards and administering contracts are involved.

PROPOSER - A person submitting a proposal in response to an RFP or other solicitation for proposals

QUOTATION – A statement of price, terms of sale and description of goods or services offered by a vendor to the County that is supplied in response to an RFQ.

REQUEST FOR PROPOSALS (“RFP”) – A Request for Proposal or RFP is a document that can be issued by the County to solicit proposals for the performance of Personal Services. Unlike the Formal Sealed Bidding process, the RFP process allows for negotiation of prices and proposals after proposals have been submitted.

REQUEST TO INITIATE – The Request to Initiate is the document used by a department to initiate a personal services procurement and which also is used by DPW to initiate a construction procurement. A copy of this form is attached hereto as Form #14.

REQUIREMENTS CONTRACT – A contract that provides for filling all purchase requirements of the purchasing County department for specified goods or services during a specified contract period, with deliveries to be scheduled by placing orders with the vendor. DPW uses this type of contract to secure contractors to perform its smaller repair and maintenance jobs that occur during the course of a year.

REQUISITION – A request for the acquisition of goods or services that a department submits to the Office of Purchasing through the ADPICS system.

RESPONSIBLE BIDDER – A bidder that has the capability to perform in full the contract requirements as evidenced by its financial, organizational and material resources, technical qualifications, experience, satisfactory record of past performance for the County and other entities, and its satisfactory record of business integrity.

RESPONSIVE BIDDER – A bidder whose bid meets the minimum specifications and requirements set forth in an Invitation to Bid.

RULES COMMITTEE – The Rules Committee of the Nassau County Legislature.

SELECTION COMMITTEE – A committee selected to evaluate competing proposals in the RFP process. The committee may appoint both technical and price advisors to assist it.

SERVICES – The furnishing of labor, time or effort by a contractor, not involving the delivery of a specific end product other than reports that are merely incidental to the required performance.

SMALL PURCHASE – Any purchase of goods and services that costs \$10,000 or less.

SOLICITATION – The process of notifying prospective bidders or

proposers that the County is seeking bids or proposals for furnishing goods or services. The process may consist of public advertising, mailing, Invitations for Bids, Requests for Proposals, posting notices on web sites, or telephone calls, faxes or emails to prospective bidders or proposers.

SOLE SOURCE PROCUREMENT – An award to a vendor of a contract for goods or services without any competitive process based upon the reasonable belief that the vendor is being the only supplier capable of delivering the good or service.

SPECIFICATION - A description of what the County seeks to purchase, and consequently, what a bidder must be responsive to in order to be considered for an award of a contract. A specification may be a description of the physical or functional characteristics, or the nature of a good or service. It may include a description of any requirements for inspecting, testing or preparing a supply or service item for delivery.

STREAMLINED COMPETITIVE PROPOSAL - A less formal, more flexible method of soliciting proposals for personal services than the RFP process.

I. INTRODUCTION

This policy and procedure covers County procurement of goods, services, personal services and construction. This includes County purchases of supplies, materials, equipment and both professional and non-professional services. The procedure sets forth guidelines that apply to each of the procurement methods that the County may use to purchase goods, services and personal services. These methods include:

- Formal sealed bidding
- Request For Proposals (“RFP”)
- Streamlined Competitive Proposal Process
- Department of Public Works Purchase Process
- Small Purchases and Direct Purchase Orders
- Emergency Procurement
- Sole Source
- Intergovernmental Procurement
- Preferred Source

In cases where contracts are to be funded in whole or in part by the federal or state government, additional or different federal or state laws or regulations may apply. In all such cases, the department seeking to procure goods or services should consult with the County Attorney's Office regarding such potential additional or different requirements.

In some cases, the County may acquire goods or services offered directly by other governmental entities without going through a competitive procurement (*see* Section IX below). Further, the acquisition or lease of real property, and the sale or disposition of goods, services, real or personal property by the County are not covered by this policy and procedure.

Certain requirements apply only to a single agency. For example, Nassau County Charter §§ 1006, 1007 and 1008 set forth requirements for contracts by the Department of Social Services respectively for social services information, child care services and foster care and adoptive services. These types of requirements that apply to the contracts of a single agency only are not covered by this County-wide policy and procedure. Moreover, this procedure does not apply to cases where there are existing contracts between departments in the health and human services vertical and not-for-profit organizations which may be renewed or extended.

The last section of this procedure sets forth procurement ethics guidelines. This section is a synopsis; it does not purport to be a comprehensive guide to ethical considerations. Any employee that feels uncertain how to resolve an ethical problem should consult with the County Attorney's office or Board of Ethics.

Nothing in this procedure shall be deemed to create, expand, modify or otherwise affect any legal right or duty or cause of action.

II. FORMAL SEALED BIDDING

Formal sealed bidding is the most commonly used procurement method for goods and services. Whenever a department wants to purchase more than \$10,000 worth of goods or non-personal services, and the goods or non-personal services are not available from a “preferred source” (see below, Section X), purchasing personnel must first consider formal sealed bidding before proceeding to any other method of procurement. The County’s formal sealed bidding process, except with respect to public works contracts, is coordinated by the Office of Purchasing. The chart below sets forth the County’s general guidelines for using formal sealed bidding. The Department of Public Works (“DPW”) manages the formal sealed bidding process for public works contracts. Special provisions that apply to formal sealed bidding on public works contracts are set forth below in Section V.

<p>WHAT IS FORMAL SEALED BIDDING?</p>	<p>Formal sealed bidding is the method of procuring goods and services over \$10,000 whereby a contract is awarded to the lowest responsible bidder meeting the specifications of an Invitation to Bid. The award is based exclusively on price and price-related factors. A form Invitation to Bid is attached as Form #1.</p>
<p>WHEN IS FORMAL SEALED BIDDING USED?</p>	<p>Formal sealed bidding must be used whenever the County is acquiring over \$10,000 of goods or services unless one of the other methods of procurement listed in this procedure is permissible.</p>
<p>HOW DO YOU BEGIN AN INDIVIDUAL PROCUREMENT USING FORMAL SEALED BIDDING?</p>	<ul style="list-style-type: none"> • A department seeking to procure goods or services by formal sealed bidding must first obtain authorization of the Deputy County Executive (“DCE”) overseeing the Department. This approval may be verbal, by email or written. Email is recommended. The approval is not recorded in the ADPICS system and does not have to be verified by the Office of Purchasing before proceeding with a formal sealed bid. • The department then should enter a “<i>requisition</i>” or purchase request into the on-line system maintained by the Office of Purchasing for making purchase requests. This system is currently known as ADPICS. The requisition must include proposed specifications, a

	<p>justification for the purchase and a realistic proposed delivery date for the good or service. In addition, departments are encouraged to include names and addresses of potential vendors, a reasonable cost estimate, whether in-house alternatives were investigated, and whether there are possible buying and leasing alternatives. Whenever reasonably practical, departments are encouraged to request standard commercially available products rather than specially designed items.</p> <ul style="list-style-type: none"> • After a department submits a requisition, all further processing of the purchase is handled by the Office of Purchasing. • The ADPICS system sends the requisition first to OMB which verifies that there are adequate funds in the department’s budget for the requested purchase before it is sent to the Office of Purchasing. • When the Office of Purchasing receives a request, it assigns a “Bid Number” which is used to identify the procurement at all ensuing stages of the procurement process.
<p>HOW DO YOU BEGIN A “BLANKET PURCHASE” PROCUREMENT USING FORMAL SEALED BIDDING</p>	<ul style="list-style-type: none"> • On such dates as are specified by the Director of Purchasing, each department will enter into ADPICS requisitions for “blanket purchases” for supplies and materials that the department anticipates needing during the ensuing quarter. • A department may obtain items previously procured under a blanket purchase order by submitting a “direct purchase order” through the ADPICS system to the Office of Purchasing. A form blanket purchase order and a form direct purchase order are attached hereto as Forms #2 and #3.
<p>WHAT PUBLIC NOTICE IS REQUIRED FOR FORMAL SEALED BIDDING?</p>	<ul style="list-style-type: none"> • The Office of Purchasing shall have a synopsis of the Invitation to Bid published in Newsday or another official newspaper of the County at least five days before bids are scheduled to be opened. In addition, if appropriate, the notice may be published in a relevant trade publication or an electronic version thereof. A copy of a form request to publish a legal advertisement of the Invitation to Bid is attached hereto as Form #4. • The notice shall set forth the time and place where bids will be publicly opened, as well as the amount of any security that must be deposited with the bid. • If the full Invitation to Bid is not published, the notice

	<p>shall state where a full copy may be obtained.</p> <ul style="list-style-type: none"> • The Office of Purchasing also will send the Invitation to Bid or a notice as to where the Invitation to Bid may be obtained to all vendors who have registered with the Office of Purchasing as vendors of the good or service in question. The Office of Purchasing has a “vendor/bid list request form” and a vendor “Application for Registration as a Bidder” that any interested vendor may submit to become registered with the County. A copy of these forms is attached as Forms #5 and 6. • The Office of Purchasing also will send the notice to the Clerk of the Legislature and to IT which publishes the Invitation to Bid on the official County web site at http://www.co.nassau.ny.us/Purchasing/index.html. The Office of Purchasing also must forward the Invitation to Bid to the Clerk of the Legislature. • The Office of Purchasing also sends the Invitation to Bid to the Office of Minority Affairs which will initiate, as appropriate, outreach to minority and women’s business enterprises.
<p>PREPARATION AND DISTRIBUTION OF SOLICITATIONS (INVITATION TO BIDS)</p>	<ul style="list-style-type: none"> • The Office of Purchasing will prepare the Invitation to Bid for a formal sealed bidding procurement, upon receiving from the procuring agency recommended specifications to include in the Invitation to Bid. • The specifications shall set forth the technical requirements for a material, product or service, as well as the criteria for determining whether these requirements are met. • Specifications can be in the form of a detailed description of the required supplies, equipment or services, including, if appropriate, descriptions of raw materials and construction methods. These are known as “design” specifications. • Specifications also can be set forth in terms of the tasks that the good or services are intended to perform or in terms of standards of performance. These are known as “functional” or “performance” specifications. • Specifications should be drawn in a manner that will maximize competition, and therefore be as clear and precise as is reasonably practicable, consistent with the County’s needs. • The Invitation to Bid shall include a notice that a contract award is subject to applicable provisions of federal, State and local laws and executive orders,

	<p>including, for example, those requiring equal employment opportunity.</p> <ul style="list-style-type: none"> • The Invitation to Bid should state that the County reserves the right to reject all bids, to reject any bid that is not responsive and to reject any bidder that it deems not responsible.
<p>AMENDMENTS TO INVITATION TO BID</p>	<ul style="list-style-type: none"> • A reasonable period prior to the deadline for submitting bids, the County may amend the Invitation to Bid, and this includes amendments that extend the deadline where it is in the County’s interest to do so. • Any amendment shall be published on the County’s web site. • The Invitation to Bid shall be advise all potential bidders to regularly check the County’s web site for possible amendments to the Invitation to Bid.
<p>WHEN AND HOW ARE BIDS OPENED?</p>	<ul style="list-style-type: none"> • Bids generally shall be submitted on a “Formal Sealed Bid Proposal” form. A copy of this form is attached as Form #8. • Bids received are not opened until the time set for the bid opening in the notice for bids. • An official from the Office of Purchasing designated as the “Public Bid Officer” opens each bid and records it on the “Summary of Bids” worksheet, a copy of which is attached as Form #9. • Copies of the bids are available for public viewing.
<p>RECEIPT AND HANDLING OF BIDS</p>	<ul style="list-style-type: none"> • Late bids, regardless of the circumstances, cannot be accepted. • A bidder may withdraw or modify a bid by giving written notice received in the office designated to receive bids prior to the opening of bids. If a bid is withdrawn prior to the opening of bids, any bid bond or bid deposit shall be returned to the bidder. However, a bid bond or bid deposit shall be forfeited by a bidder that withdraws its bid after the opening of bids if that bidder otherwise would have been the lowest bidder. The department shall retain all documents relating to a withdrawn or modified bid. • A minor, technical and non-substantive mistake in a bid can be corrected after bids are opened provided that such correction would not materially prejudice other bidders, subject to approval by the Director of Purchasing. A copy of the form for an amendment to a Formal Sealed Bid is attached hereto as Form #8.

EVALUATION OF BIDS

- The Office of Purchasing's evaluation and recommendation is recorded on the Formal Bid Recommendation form which is attached hereto as Form #10.
- Only evaluation factors and formulas stated in the Invitation to Bid can be considered in determining the lowest responsible bidder.
- The Director of Purchasing or his or her designee determines the "lowest responsible bidder" or in a case where there is a "multiple award", the "lowest responsible bidders".
- The "lowest bidder" is the bidder offering the lowest aggregate cost.
- The Director of Purchasing or his or her designee also must determine if a bid is "responsive" in that it satisfies all specifications and conforms to all material requirements of the Invitation to Bid.
- For example, the Director of Purchasing shall determine that a bid is non-responsive if :
 - The bidder's signature is missing.
 - The bidder failed to post the required bid security.
 - The bidder failed to initial in ink any alteration of price.
 - The bidder failed to submit any required certificates or licenses, as stated in the Invitation to Bid.
- Examples of when the Director of Purchasing may, depending upon the specific circumstances, determine that a bid is non-responsive include:
 - The bidder failed to respond fully to all the literal terms of the specifications.
 - The bidder failed to attend a "mandatory" bidders' pre-bid conference.
 - The bid is qualified or conditional.

If the Director of Purchasing determines that the low bid is still not a fair and reasonable price in light of prices bid in previous procurements, current market prices or other relevant considerations, he or she may try to negotiate a lower price with the lowest responsible and responsive bidder (and with that bidder only) or may reject all bids and begin a new procurement. The Director of Purchasing also may try to negotiate with the lowest responsible and responsive bidder (and only that bidder) for terms and conditions that are more

	<p>favorable to the County, provided that there is no increase in the price.</p>
<p>CANCELING INVITATION TO BID AFTER OPENING</p>	<p>There may be reasons why an Invitation to Bid may be cancelled after bids are opened, as follows:</p> <ul style="list-style-type: none"> ➤ The specifications turned out to be inadequate or ambiguous. ➤ All responsive bids are at unreasonable prices. ➤ Only one bid was received and the County cannot determine if the bid price is reasonable. ➤ No bid meeting specifications was received from a responsible bidder. ➤ Bids were collusive or submitted in bad faith. ➤ Cancellation is in the County’s best interest for other reasons. <p>The Director of Purchasing shall document the reason for canceling an Invitation to Bid after bids have been opened. A Cancellation of Bid form is attached hereto as Form #11.</p>
<p>BIDDER RESPONSIBILITY</p>	<p>A “responsible” bidder is one that is capable of performing the full contract requirements based upon its:</p> <ul style="list-style-type: none"> ➤ Financial resources ➤ Technical qualifications ➤ Experience ➤ Having the necessary organization, material, equipment, facilities, and equipment ➤ Satisfactory record of past performance for the County and for other clients and customers ➤ Satisfactory record of business integrity <p>For example, a bidder shall be found non-responsible if:</p> <ul style="list-style-type: none"> ➤ The bidder is in arrears to the County on tax payments, a debt or contract. ➤ The bidder has defaulted as surety or otherwise upon a contract or obligation to the County ➤ The bidder has been convicted of a crime that is relevant to determining the bidder’s business integrity. ➤ The bidder refuses to cooperate in an investigation by the County. <p>Examples of when a bidder, depending upon individual circumstances, may be found non-responsible include:</p> <ul style="list-style-type: none"> ➤ The bidder lacks a satisfactory record of past performance with the County or other clients or customers on projects of similar scope and complexity

	<ul style="list-style-type: none"> ➤ The bidder lacks proof that it has the necessary resources to perform the contract. ➤ The bidder has failed to disclose requested information. <p>If a bidder is found to be non-responsible, the Director of Purchasing or his or her designee should document the reason for such finding. The Director of Purchasing or his or her designee also must make an affirmative finding that the winning bidder is responsible.</p>
<p>GENERAL APPROVAL PATH</p>	<p>All formal sealed bidding contracts are subject to the following approvals:</p> <ul style="list-style-type: none"> • OMB must certify that sufficient funds are available in the department’s budget; • IT must approve any purchase that involves computer-related equipment; • The Office of Fleet Management must approve any purchase or lease that relates to motor vehicles; • DPW must approve any purchase that involves the expenditure of capital budget funds even if it is not for a “public works” project; • The <i>Director of Purchasing or his or her designee</i> must approve the contract unless it is a public works contract in which case DPW approves it; and • The <i>Comptroller</i> must approve the contract and certify that funds will be encumbered for its execution. <p>All contracts in this general approval path are executed by the Director of Purchasing or his or her designee.</p>
<p>COUNTY EXECUTIVE/COUNTY ATTORNEY APPROVAL</p>	<p>Pursuant to Section 2206 of the Nassau County Charter, the County Attorney and the County Executive or a Deputy County Executive to whom such power has been delegated must authorize the issuance of purchase orders or contracts related to <i>construction and maintenance applicable to the Department of Public Works and any contracts that are not for the purchase of supplies, materials, equipment and services in connection with the operation, renovation or maintenance of County facilities or equipment.</i> The range of competitive sealed bid contracts in this latter category of contracts is fairly narrow. It includes certain types of service contracts for which formal sealed bidding is an appropriate procurement method, such as:</p> <ul style="list-style-type: none"> • Translation services • Bus transportation services • Microfilming services.

	<ul style="list-style-type: none"> • Installation of software <p>All contracts and purchase orders in this special approval path are executed by the County Executive or a designated Deputy County Executive (“DCE”) and must be filed with the Clerk of the Legislature after they are executed.</p>
<p>LEGISLATIVE APPROVAL</p>	<ul style="list-style-type: none"> • Where the award to a single bidder exceeds \$100,000, both direct purchase orders and formal sealed bidding contracts for goods and non-personal services procured pursuant to section 103 of the General Municipal Law must be approved by the <i>Rules Committee of the County Legislature</i>. • Where approval of the Legislature is required, the selected contractor must disclose on the cover sheet to the proposed resolution for approval of the contract a statement disclosing the principals of the contractor or, if the contractor is a publicly traded corporation, provide the same disclosure as was provided to the Securities and Exchange Commission. • All such contracts and purchases must be transmitted to the Legal Counsel Bureau of the County Attorney’s Office with a Staff Summary form completed by the Office of Purchasing (or in the case of DPW public works contracts, by DPW). A copy of the Staff Summary form is attached hereto as Form #12. The Legal Counsel Bureau shall forward the contract with a Rules Committee Resolution Form to the County Executive’s Director of Legislative Affairs who shall submit it to the Legislature. A copy of the Rules Committee Resolution Form is attached as Form #13

III. REQUEST FOR PROPOSALS (“RFP”)

Personal services, like non-personal services, may be procured by formal sealed bidding, but personal services also may be procured by using the alternative method known as Request for Proposals, and more commonly referred to as “RFP”. The RFP process should be used for procuring personal services unless another method is permissible pursuant to this Procedure. The RFP process is competitive, like the formal sealed bidding process. However, unlike formal sealed bidding, price and responsibility are not the only two factors on which competing vendors are evaluated. In the RFP process, other factors, such as past performance, technical excellence and ability to comply with the County’s time schedule, may be weighed to determine which vendor will provide the County with the best value. The RFP process also is distinguished from the formal sealed bidding process in that it requires the procurement officials to exercise substantial discretion and judgment both in formulating the RFP and in evaluating proposals.

<p>WHAT ARE THE “PERSONAL SERVICES” THAT ARE PROCURED BY RFP</p>	<p>Personal services are those that require a service provider’s <i>specialized skills, expertise and judgment</i>. This generally includes procurement of human, social, cultural, educational, legal, accounting, financial, computer, and other <i>professional services</i>. Architectural, engineering and surveying services are treated separately in Part V of this Policy.</p>
<p>MIXED PURCHASES OF TECHNOLOGY AND PERSONAL SERVICES</p>	<p>Sometimes, a purchase of equipment may also involve the purchase of expert services to design the equipment. As set forth in 1988 Op. State Compt. No. 88-35, such a purchase contract will be considered one for personal services if:</p> <ul style="list-style-type: none"> • the personal services component is the <i>primary or predominant</i> part of the acquisition, and • there is “<i>inextricable integration</i>” of the personal services and “physical components”. For example, purchase of computer hardware and software may fall under this exception depending on: <ul style="list-style-type: none"> ➤ the amount of time and effort involved in <i>tailoring</i> the prepackaged hardware or software; ➤ the degree of <i>customizing</i> necessary; ➤ the amount of time and effort involved in any <i>personnel training</i> services provided by the vendor; and ➤ the <i>relative cost</i> of the prepackaged hardware or software and services. • Although an RFP may be used under the above-described conditions, in any mixed purchase, a department may elect instead to use formal sealed bidding for the equipment portion or for the entire procurement. • Any <i>questions</i> regarding whether a particular contract qualifies as a “personal services contract” should be directed to the County Attorney’s Office.
<p>HOW IS AN RFP PROCESS INITIATED?</p>	<ul style="list-style-type: none"> • To begin a procurement for personal services, a department must submit the “Request to Initiate, Part I” form to the Vertical DCE for approval and signature. This is attached (Form #14). • The department head, Vertical DCE and the DCE for Operations must approve and sign this form. A copy must be filed with the Office of Compliance. • In certain circumstances, such as where an RFP is being

	<p>released on behalf of more than one agency, the DCE for Operations may designate the head of one of the departments as the official responsible for preparing the RFP and may designate that person or the Director of Purchasing as the official responsible for publishing the RFP and accepting proposals.</p> <ul style="list-style-type: none"> • The department approved by the DCE for Operations to prepare the RFP, then prepares the RFP. • The department must then notify the Office of Purchasing of the RFP title, due date and location for submission of proposals, and a department contact name and telephone number.
<p>WHAT INFORMATION DOES AN RFP INCLUDE?</p>	<p>As stated above, procurement officials exercise substantial discretion in determining how to formulate an RFP. However, in general, an RFP should include each of the following sections:</p> <ul style="list-style-type: none"> • <i>Purpose/General Information</i> – Normally, this section shall include: <ul style="list-style-type: none"> ➤ a general description of the service that the County seeks; ➤ the name of the person in the County to contact for further information; ➤ the number of copies required; ➤ a timetable of dates relevant to proposal submission; ➤ a notice that the contract award is subject to the applicable provisions of federal, State, and local laws and executive orders, including, for example, those requiring equal employment opportunity; and ➤ a notice that proposers shall identify any portions of their proposals that they deem to be confidential, proprietary information or trade secrets and provide any justification why such materials, upon request, pursuant to the New York Public Officers Law, Article 6 (the “Freedom of Information Law”), may not be disclosed by the County. Such information must be easily separable from the non-confidential sections of the proposal. <p>In addition, this section may include:</p> <ul style="list-style-type: none"> ➤ the required format; ➤ the required contents;

	<ul style="list-style-type: none"> ➤ a page limitation; ➤ a notice that proposals may be withdrawn or modified prior to the deadline for submitting proposals, but that following the deadline, submitted proposals shall be irrevocable for such period as is specified in the RFP; and ➤ a notice that although discussions may be conducted with the highest ranked proposers submitting responsive proposals, an award may be made without any discussion. <ul style="list-style-type: none"> • <i>Specifications</i> – The RFP shall include specifications of the service to be performed. Among other things, the specifications may include: <ul style="list-style-type: none"> ➤ a detailed statement of the scope of the services to be performed; ➤ a description of the materials, equipment and methods that are to be used to deliver the services; ➤ a timetable of dates for tasks to be completed; ➤ the goal sought to be accomplished; ➤ the performance standards that are to be met and the tests that are to be applied to determine if the standards are met; ➤ the required qualifications of proposers; ➤ the number and type of required references; and ➤ financial and other information needed from proposers. ➤ If the specifications include the proposed contract, the department must use the applicable Model Base Form or obtain approval from the County Attorney’s Office for any changes to the Model Base Form. The Model Base Form for personal services contracts and instructions are attached as Form #15. • <i>Evaluation Criteria</i> – This section shall explain the criteria that will be used to evaluate proposals and the relative weight that will be assigned to the respective criteria. Factors that may be considered include: <ul style="list-style-type: none"> ➤ Price ➤ Technical excellence ➤ Management capability
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	<ul style="list-style-type: none"> ➤ Personnel qualifications ➤ Prior experience ➤ Past performance ➤ Ability to comply with the department's schedule
<p>PUBLIC NOTICE</p>	<ul style="list-style-type: none"> • A reasonable period of time before proposals are due to be submitted, a synopsis of the RFP must be published in Newsday or in a trade or professional journal or the web site of a trade or professional association that is likely to reach potential vendors. In addition, the RFP may be distributed to qualified vendors known to the department. • The notice shall set forth: <ul style="list-style-type: none"> ➤ The name of the procuring department; ➤ The RFP Number; ➤ A description of what is being purchased ➤ How the full RFP can be obtained ➤ The name and contact information for the person at the department to whom questions about the RFP may be addressed; ➤ Any eligibility requirements for submitting proposals; and ➤ The deadline and place for submitting proposals; • The department issuing the RFP also will transmit the RFP to the Office of Purchasing which in turn will forward the RFP to IT ("IT"). IT will publish the RFP on the County web site at: http://www.co.nassau.ny.us/Purchasing/index.html. • IT also will forward a copy of the RFP to the Clerk of the Legislature. • IT will forward the RFP to the Office of Minority Affairs. The Office of Minority Affairs will, as appropriate, initiate outreach to minority and women's business enterprises.
<p>AMENDMENTS TO RFP</p>	<ul style="list-style-type: none"> • An RFP may be amended at any time prior to the deadline for submitting proposals. • Any party that has requested the RFP shall promptly be notified in writing or by email about any amendment to the RFP. In addition, all such amendments or addenda shall be published in the same manner as the original RFP. Parties receiving an amendment shall be required

	to send a written acknowledgment of receipt.
ESTABLISHMENT OF SELECTION COMMITTEES	<ul style="list-style-type: none"> • Before responses on the RFP are due, the department should establish a Selection Committee to review the proposals. • The Selection Committee may appoint one or more persons to serve as advisors or as a panel of advisors to the Committee with regard to technical matters. • The Selection Committee also may appoint one or more persons with appropriate expertise, skills or experience to serve as advisors or as a panel of advisors to the Committee with regard to price proposals. • The department shall ensure that no member of the Selection Committee or any of its advisors have any “conflict of interest”, as set forth in Section 2218(a) of the Nassau County Charter. • In general, the Selection Committee should be composed of no fewer than three persons.
PRE-DEADLINE DISCUSSIONS WITH PROPOSERS	<ul style="list-style-type: none"> • Parties that intend to respond to the RFP shall address any questions regarding the meaning of provisions of the RFP <u>only</u> to the person designated in the RFP as the department’s contact person. • The department may hold a proposers’ conference at which it addresses questions regarding the RFP. • Except at the proposers’ conference, all questions must be in writing and will be answered, if appropriate, as promptly as is practical. The department may set a deadline for accepting written questions. • If the answer to a question requires a clarification of the RFP, such clarification will be sent to all parties known to have requested the RFP.
PRE-DEADLINE HANDLING OF PROPOSALS	<ul style="list-style-type: none"> • A proposer may withdraw or modify a proposal at any time prior to the deadline for submitting proposals by submitting a written notice to the soliciting department. • The department shall return any security bond or deposit to a proposer that withdraws its bid prior to the deadline, but shall retain all documents relating to the withdrawn proposal for its records.
POST-DEADLINE HANDLING OF PROPOSALS	<ul style="list-style-type: none"> • Proposals submitted after the published deadline shall not be accepted, but the deadline for submitting proposals may be extended by an amendment to the RFP made in accordance with this Policy/Procedure. • Proposals are not required to be opened in public, but

	<p>shall be either date and time-stamped or opened in the presence of two or more County employees.</p> <ul style="list-style-type: none"> • The names and addresses for all parties that request an RFP shall be recorded in the Response Summary on the Request to Initiate Form. • Prior to evaluation, all proposals should be reviewed for completeness and compliance with the form and content requirements of the RFP. However, the Committee may waive certain irregularities, such as minor deviations from form requirements.
<p>POST-DEADLINE MODIFICATION OF PROPOSALS</p>	<p>After the deadline for submitting proposals, but prior to the time for submitting a revised or a Best and Final Offer”(“BAFO”), if the County has decided to enter into discussions with a proposer, the proposer may correct mistakes in its proposal. In addition, a proposer always may modify its proposal when requested to do so by the County.</p>
<p>SUFFICIENCY OF NUMBER OF PROPOSALS FROM RESPONSIBLE PROPOSERS.</p>	<ul style="list-style-type: none"> • The soliciting department shall eliminate proposals from any individuals or entities that are not “responsible”, as defined in the above section with regard to formal sealed bids. • The soliciting department must then determine whether it has received a sufficient number of proposals to ensure that the procurement process will be competitive. If the department receives less than three such proposals, when it makes a contract award recommendation, it will have to justify in writing to the DCE for the department’s vertical why it was not possible to attract more qualified proposers.
<p>EVALUATION OF PROPOSALS</p>	<ul style="list-style-type: none"> • The Selection Committee, either on its own or based upon the advice of its technical advisors, shall rate proposals in terms of their technical merit. • A rating or scoring worksheet shall be used by the Committee and/or its technical advisors, if any, to score each proposal on each of the technical criteria set forth in the RFP. • The Selection Committee and/or its technical advisors shall prepare an evaluation report. The evaluation report shall show the scores assigned to each proposer on each evaluation criterion. It also shall identify which proposals are technically responsive (or are capable of being made responsive) in that they meet specifications. • Technically responsive proposals should be scored and

	<p>evaluated in comparison to one another and the best proposals should be identified. Price proposals for those highly ranked technical proposals should then be considered.</p> <ul style="list-style-type: none"> • In general, the number of these best qualified proposals should be three, but there may be cases where less or more proposals may be considered. • The Committee may decide to consider price only for the proposals receiving the highest-ranking technical evaluations and may eliminate from further consideration lower-ranking technical proposals. • The Selection Committee shall determine which of the remaining proposers has submitted a “reasonable” price proposal based upon the historical price paid for the same or similar services, published price lists, and the County’s estimate of the proposer’s costs. • The Selection Committee must record their price evaluations in the Committee’s evaluation report. • One method for comparing proposals, but not the only method, is to score them in terms of price per technical evaluation point and to select the proposals that have the lowest cost per technical evaluation point. However, a high quality proposal that has the lowest cost per technical evaluation point may still properly be rejected if there are other appropriate reasons that favor awarding the contract to another proposer. For example, the Committee properly could reject a proposal from the proposer with the lowest cost per technical evaluation point if the price bid by that proposer exceeds the County’s budget constraint for the project. Similarly, if quick completion of the project is important, the County properly might choose a bidder who could complete the project more rapidly. • The Committee must record in writing on the rating sheet or elsewhere the combined rating for each remaining proposer. See <i>Sample Rating Sheets attached hereto</i>.
<p>DECIDE WHETHER OR NOT TO HAVE DISCUSSIONS</p>	<ul style="list-style-type: none"> • After the highest scoring proposals have been identified, the Selection Committee shall determine whether to enter discussions with these proposers or to recommend awarding the contract to the top proposer(s). • Advantages of discussions include: <ul style="list-style-type: none"> ➤ Ensuring that proposers understand the County’s

	<p>requirements;</p> <ul style="list-style-type: none"> ➤ Maximizing the opportunity to negotiate advantageous contract terms; and ➤ Providing an opportunity to obtain the best price.
<p>FRAMEWORK FOR DISCUSSIONS</p>	<ul style="list-style-type: none"> • If the Selection Committee elects to hold discussions with the finalists, it should hold such discussions itself, but if there are technical questions that may need to be discussed, the Committee’s technical advisors, if there are any, may also participate. • The Selection Committee should : <ul style="list-style-type: none"> ➤ Establish an agenda and schedule for all discussions. ➤ Accord fair and equal treatment to all finalist proposers with respect to their opportunity for discussion and revision of proposals. ➤ Resolve any ambiguities or uncertainties in the proposals. ➤ Keep records of discussions and their results. • The Committee members and its advisors may not: <ul style="list-style-type: none"> ➤ Give one of the proposers an advantage by providing information about the other proposers’ technical or price proposals. ➤ Disclose technical information to an individual proposer that will improve its proposal. This does not preclude advising a proposer that it needs to improve its technical proposal by using a phrase like, “sharpen your pencil”. It also does not preclude clarifying any aspects of the specifications that the proposer may have misunderstood. ➤ Disclose to a proposer what price target it will need to meet to compete successfully. This does not preclude informing a proposer that the County will not consider any bid that exceeds a specified “competitive price range”, so long as all bidders are so informed. • If the Selection Committee decides to recommend awarding the contract to one or more of the proposers without soliciting best and final offers from a group of finalists, the Committee still may hold discussions with the winning proposer(s) and attempt to negotiate more favorable terms for the County.

	<ul style="list-style-type: none"> • At the conclusion of discussions, the Committee may decide to recommend awarding the contract to one or more of the proposers based on their existing proposals. However, it often will be useful to request some or all the finalist proposers to submit a “best and final offer” (“BAFO”). • This request shall be made in writing and shall state the deadline for submitting BAFOs and to whom they must be submitted. • The notice also shall specify any additional form or content requirements for BAFOs. • BAFOs shall be evaluated in the same manner as the original proposals. • Proposers shall be informed that if they do not submit a notice of withdrawal or another best and final offer, their immediate previous offer will be construed as their best and final offer. • In certain situations, the Committee may determine that it is appropriate to reopen discussions with a new round of BAFOs, but efforts must be made to avoid multiple rounds.
<p>SELECTING OTHER THAN THE LOWEST PRICE PROPOSER</p>	<ul style="list-style-type: none"> • If the Committee decides to award the contract to other than the lowest cost proposer, it will have to provide a written justification for doing so to the County Executive or DCE designated to oversee the soliciting department. • The justification could include: <ul style="list-style-type: none"> ➤ That the winning proposer, while not offering the best aggregate price, did offer the best value in that its price per technical quality point was lower than all other bidders. ➤ The winning proposer had unique experience or expertise. ➤ The technical quality of the winning proposal was superior to all other proposals and technical quality is a high priority for the procurement. ➤ Other special circumstances justified awarding the contract to the recommended proposer, such as the ability of the proposer to meet the time and deliverability requirements of department.

<p>REQUEST TO INITIATE CONTRACT WITH RECOMMENDED VENDOR</p>	<ul style="list-style-type: none"> • After a vendor has been selected by the Selection Committee, the soliciting department must submit to the DCE for Operations Part II of the “Request to Initiate” form and forward a copy of this form to the Director of Legislative Affairs. • If the DCE for Operations decides to authorize the department to award the contract to the recommended vendor, he or she completes Part III of the Request to Initiate and returns the form to the department.
<p>CONTRACT PREPARATION</p>	<ul style="list-style-type: none"> • For personal services contracts, the department shall use the “Model Base Form” for personal services contracts. <u>See Form #15.</u> • If the department wants to include language in the contract that differs from the Model Base Form, it must first consult with and obtain the approval of the County Attorney’s Office. • The contract shall be signed by the vendor and then be entered in the NIFS computer database. • The Department head shall then approve the contract in the NIFS database and sign the Contract Advisement, Contract Summary and Routing Slip (the “Routing Slip”). A blank copy of a Contract Routing Slip is attached as Form #16.
<p>CONTRACT APPROVAL</p>	<p>The contract approval process is governed by the County Executive’s previously issued “Contract Development Procedure” which is not superseded or modified by this Procedure. However, in summary, all personal services contracts are subject to approval by:</p> <ul style="list-style-type: none"> • OMB • The Department head • The DCE overseeing the department • The DCE for Operations • The County Attorney • The Legislature • The Comptroller (Comptroller Approval Form is attached hereto as Form #17). <p>All these parties, except the Legislature, must sign the Routing Slip and enter their approval in the NIFS database. The contract ultimately will be executed by the DCE overseeing the department.</p>

<p>LEGISLATIVE APPROVAL</p>	<ul style="list-style-type: none"> • The Rules Committee of the County Legislature must approve personal service contracts that exceed \$25,000, are for a term of more than one year, or result in aggregate expenditures with a single entity of \$50,000 per year. This requirement applies equally if the personal services are procured by a means other than RFP, including procurement by formal sealed bidding. • This requirement does not apply in certain limited circumstances, including: <ul style="list-style-type: none"> ➤ Contracts for services of expert witnesses for use in, or in anticipation of, a specific adjudicatory proceeding or litigation. ➤ Contracts for services of attorneys to provide legal counsel to the County Executive or the Presiding Officer of the Legislature in any case in which either is named as a defendant or respondent or to provide either with specialized legal counsel in “certain sensitive governmental areas” requiring outside counsel. ➤ Certain contracts involving the expenditure of federal or State aid where federal or State law or regulations require otherwise. ➤ Contracts to provide services to public assistance recipients or senior citizens. ➤ Contracts for solid waste management, collection and disposal. ➤ Contracts for services performed and articles manufactured in correctional facilities. ➤ Purchase orders for services under previously adopted blanket resolutions of the Legislature. ➤ Purchases through the State Office of General Services.
<p>EXIGENT CIRCUMSTANCES</p>	<p>If the County Executive or Deputy County Executive determines that the “exigencies of the circumstances warrant”, he or she can authorize a contract for up to \$10,000 without approval of the Rules Committee regardless of the fact that the aggregate amount of expenditures for the year to the selected vendor exceeds \$50,000.</p>

IV. STREAMLINED COMPETITIVE PROPOSAL PROCESS

In some cases, it is impractical and inefficient to utilize the formal RFP process to procure personal services. In these cases, departments may use a “Streamlined Competitive Proposal Process”.

<p>WHEN MAY THE STREAMLINED PROCESS BE USED?</p>	<p>The streamlined process is appropriate when procuring personal services under the formal RFP process would be impractical or inefficient. This may include, but is not limited to, the following circumstances:</p> <ul style="list-style-type: none"> • There is a “time-sensitive” situation where a service provider must be retained quickly. • There are a limited number of providers available and able to perform the work. • There is a need to procure legal services or consulting services in support of current or anticipated litigation, investigative or confidential services. • The contract is let by a department in the health and human services vertical and is for the purpose of delivering client services. • The anticipated response from responders is not technical in nature. • The cost of the services that the department seeks to procure does not exceed \$100,000. <p>While the presence of any of these factors can weigh in favor of a streamlined process, the absence of a factor does not count against using the process. For example, in a time-sensitive situation where there are a limited number of providers available to perform the work in a timely manner, the streamlined process would be appropriate even if the matter did not involve litigation and the cost of services exceeded \$100,000.</p>
<p>EXAMPLES OF “TIME-SENSITIVE” SITUATIONS</p>	<p>Examples of “time-sensitive” situations where the streamline process may be appropriate include:</p> <ul style="list-style-type: none"> • The department needs to respond to a court order, stipulation or consent decree. • Funds available from a source outside the County will be lost to the County. • An existing service provider has been terminated, has defaulted, has withdrawn from, or has repudiated a contract, or has otherwise become unavailable, or the department has decided not to renew or extend an existing

	<p>contract in the best interests of the County, and the department requires a substitute or successor provider.</p> <ul style="list-style-type: none"> • A compelling need for services exists that cannot be timely met through the RFP process. <p>Depending upon the severity of the situation, any of these circumstances could also constitute an emergency that qualified for procurement under the “emergency” procurement procedure set forth below.</p>
INITIATION OF STREAMLINED PROCESS	<p>Before commencing a streamlined competitive procurement of personal services, all departments, except the County Attorney’s Office, must prepare a Request to Initiate and have it approved by the department head, the Vertical’s DCE, and the DCE for Operations.</p>
SOLICITATION OF PROPOSALS	<ul style="list-style-type: none"> • In general, a department using this method should seek proposals from a minimum of three qualified vendors, unless it can demonstrate that fewer than three qualified vendors are available to provide the services sought. • The department shall issue verbal or written instructions to the solicited firms which set forth : <ul style="list-style-type: none"> ➤ The required form and contents of proposals. ➤ The deadline for submitting proposals. ➤ A description of the nature and scope of the personal services sought by the department. ➤ The criteria that will be used to evaluate proposals.
ESTABLISHMENT OF SELECTION COMMITTEE OR DESIGNATION OF EVALUATOR	<ul style="list-style-type: none"> • In general, proposals should be evaluated by a Selection Committee. The department head shall designate as members of this committee employees of the department who have appropriate expertise, skills and experience. • In certain circumstances, it may be impractical to establish a Selection Committee and, in such circumstances, a department head may designate a single Evaluator with appropriate expertise, skills and experience.
EVALUATION OF PROPOSALS	<ul style="list-style-type: none"> • Similar to the RFP process, proposals shall be evaluated in terms of their quality and price, and other relevant factors. • The ability of firms to meet the timing and deliverability requirements of the department also shall be considered. • The Selection Committee or Evaluator shall score each proposal and maintain a written record of the results of

	<p>such scoring.</p> <ul style="list-style-type: none"> • The Selection Committee or Evaluator shall combine the technical and price evaluations and determine which firm provides the best value to the County, within the budget constraint of the County.
POST-EVALUATION PROCESS	<ul style="list-style-type: none"> • The same post-evaluation process as applies to RFP proposals also applies to streamlined proposals. The Committee or Evaluator must determine whether or not to engage in discussions with proposers and/or to request “best and final offers”. • The same rules regarding the holding of discussions and solicitation of best and final offers apply to the streamlined process. • The department must also provide to its vertical’s DCE a written justification for recommending award of the contract to other than the lowest cost proposer.
CONTRACT PREPARATION AND APPROVAL	<ul style="list-style-type: none"> • The same requirements and approvals as are required for personal services contracts formed pursuant to the RFP process apply to personal services contracts formed pursuant to the streamlined process.

V. DPW’s COMPETITIVE PROCESSES FOR CONSTRUCTION, ARCHITECTURAL, ENGINEERING AND SURVEYING SERVICES

The Department of Public Works (“DPW”) is the County department primarily responsible for procuring contracts for public works, and architectural, engineering and surveying services. DPW will procure all construction work to be done for the County. In addition, any department that wants to procure architectural, engineering and surveying services for its own programs or activities must first meet and confer with the Commissioner of Public Works or his or her designee. The Commissioner or his or her designee shall meet with the requesting department within several days of receiving the request. The Commissioner may authorize the requesting department to proceed with the procurement on its own. If the DPW Commissioner declines permission to the requesting department to proceed on its own, the

department may then elect either to have DPW handle the procurement or may request the Deputy County Executive for Operations for permission to proceed with the procurement on its own. A request should be made to the Deputy County Executive for Operations only where the requesting department has a good faith belief that there are compelling reasons why it should be permitted to proceed with handling the procurement on its own.

Many of the above provisions relating to formal sealed bidding apply to public works contracts, except that DPW rather than the Office of Purchasing administers the procurement process. Similarly many of the procedures outlined above that apply to other personal services also apply to architectural, engineering and surveying services. However, there are also special provisions that apply only to the procurement of these services. These special provisions are set forth in the chart below.

A) CONSTRUCTION

<p>INITIATION AND PROCESSING OF CONSTRUCTION CONTRACTS</p>	<ul style="list-style-type: none"> • Construction contracts are initiated when the Commissioner of DPW or his or her designee sends a Request to Initiate Form to the DCE overseeing DPW. As with RFPs, the Vertical DCE and the DCE for Operations must approve the Request to Initiate before DPW proceeds with the procurement. • The Commissioner or his or her designee then follows the same steps that the Director of Purchasing would follow for other formal sealed bids. That is, the Commissioner prepares a Notice to Bid (analogous to the Invitation to Bid prepared by the Office of Purchasing) which includes adequately detailed specifications and has the Notice published in Newsday or another official newspaper of the County. The Notice also may be published in a relevant trade journal. Following publication of the Notice and at least five days prior to the date that bids will be opened, DPW shall have the plans and specifications available for review and inspection at the DPW Office of Purchase and Contracts. DPW also sends the notice to the Office of Purchasing
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	<p>which forwards it to Department of Information Technology for posting on the County web site.</p> <ul style="list-style-type: none"> • Like the Blanket Purchase Contracts that the Office of Purchasing has with vendors of various goods and services, DPW has Requirements Contracts with various contractors. DPW utilizes these contractors during the year to handle various smaller repair and maintenance jobs. • The provisions regarding the handling, modification, cancellation and evaluation of bids set forth above for other formal sealed bids handled by the Office of Purchasing apply equally to competitive sealed bids for construction contracts handled by DPW. • After a winning bidder is selected, construction contracts are subject to the same approval path as other competitively bid contracts that are executed by the County Executive or a designated DCE.
<p>WICKS LAW</p>	<p>Under the Wicks Law (Gen. Mun. Law §101), when the County contracts for the construction, reconstruction or alteration of buildings with an entire cost of more than \$1,500,000, the County, in addition to awarding a contract to a general contractor if it wants one, also must separately bid and award contracts for:</p> <ul style="list-style-type: none"> • Plumbing and gas fitting; • Steam heating, hot water heating, ventilating and air conditioning (“HVAC”); and • Electric wiring. <p>The Wicks Law does not apply to construction contracts procured under emergency circumstances where formal sealed bidding is not required , nor does the Wicks Law apply to any contract when a political subdivision has chosen to require a project labor agreement pursuant to Labor Law Section 222 (2) (a).</p>
<p>SPECIAL PREVAILING WAGE PROVISION</p>	<ul style="list-style-type: none"> • For public works contracts, the Invitation to Bid must include a notice that the contract award is subject to applicable provisions of the New York State Labor Law regarding the payment of prevailing wages and supplements to laborers, workers and mechanics, and that proposers shall be required to submit with their proposals a completed “Request for Wage and Supplement Information” form.
<p>APPRENTICESHIP</p>	<ul style="list-style-type: none"> • The County requires any contractor, prior to entering

	<p>into a construction contract with the County with a value in excess of \$500,000, to have apprenticeship agreements for the type and scope of work to be performed, which have been registered with and approved by the New York State Commissioner of Labor.</p>
<p>CHANGE ORDERS</p>	<ul style="list-style-type: none"> • All changes to existing contracts shall be approved by the Commissioner of DPW or his or her designee and shall be reflected in a change order, which, once authorized shall become a part of the original contract. A copy of the change order shall be sent to the contractor within 10 days after authorization of the change. • DPW may include in any Notice to Bid a provision for determining the cost of expected changes so that these costs can be competitively determined before award. • Changes <i>may include</i> any one or more of the following: <ul style="list-style-type: none"> ➤ Specification changes to account for design errors or omissions; ➤ Changes in contract amount due to authorized additional or omitted work. Any such changes require appropriate price and cost analysis to determine reasonableness. All changes that cumulatively exceed ten percent of the original contract amount shall be approved by the Vertical DCE; ➤ Extensions of a contract term for good and sufficient cause for a cumulative period not to exceed one year from the date of expiration of the current contract; ➤ Changes in delivery location; and ➤ Changes in shipment method. • Changes are permitted only for work necessary to complete the work included in the original scope of the contract and for non-material changes to the scope of the contract. Changes are not permitted for material alterations in the scope of work or for the insertion of a renewal clause to the contract. Material alterations to the scope of the work may be made only by a new procurement. • For each procurement, DPW shall maintain a log of all executed change orders that shall include: <ul style="list-style-type: none"> ➤ the name of the contractor and the original contract amount;

	<ul style="list-style-type: none"> ➤ the reason(s) for and the dollar amount of the change order; and ➤ a running total of the value of the changes and the resulting revised contract amount.
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B) ARCHITECTECTURAL, ENGINEERING AND SURVEYING SERVICES

INITIATION OF ARCHITECTURAL, ENGINEERING AND SURVEYING CONTRACTS	As with other personal services contracts, DPW must first submit a Request to Initiate and have it approved and signed by the DCE overseeing DPW and the DCE of Operations.
PROCUREMENTS OF \$50,000 OR UNDER	<ul style="list-style-type: none"> • DPW has compiled Vendors Lists from architectural, engineering and surveying firms that have submitted a form to it known as the “Statement of Qualifications and Performance Data”. • For procurements of \$50,000 or under, DPW solicits proposals from no less than three firms on the relevant Vendor List.
PROCUREMENTS OVER \$50,000	RFPs for over \$50,000 worth of services shall have the same form, content and public notice requirements as are applicable to RFPs for other personal services contracts.
HANDLING OF PROPOSALS AND DISCUSSIONS WITH PROPOSERS	<ul style="list-style-type: none"> • The same guidelines that apply to streamlined proposals apply to proposals of up to \$50,000 worth of architectural, engineering and surveying services. • The same guidelines that apply to other RFP proposals apply to RFPs for architectural, engineering and surveying services.
ESTABLISHMENT OF SELECTION COMMITTEE AND EVALUATION PROCESS	<ul style="list-style-type: none"> • The same guidelines that apply to the establishment of a selection committee for other personal services contracts apply to procurements of architectural, engineering and surveying services. • The same guidelines that apply to the evaluation process for other personal services contracts apply to procurements of architectural, engineering and surveying services by, except as described in the boxes below.
SPECIAL EVALUATION CRITERIA	Pursuant to Resolution 928 of 1993, the following criteria must be applied to evaluate architectural, engineering or surveying services proposals:

	<ul style="list-style-type: none"> • the magnitude, scope and complexity of the services to be rendered; • the experience of the firm in assignments of similar size, scope and complexity; • the size, staffing, resources, and financial capability of the firm vs. the size of the assignment; • the knowledge and experience with the Nassau County facilities and programs involved in the assignment; • the past performance with the department; • the time constraints and deliverability of services; and • the firm’s workload with the department. <p>The Selection Committee also may apply any other criteria that it reasonably deems to be relevant.</p>
<p>MINIMUM OF THREE TECHNICALLY QUALIFIED FIRMS</p>	<p>DPW shall make its best effort to obtain proposals from a minimum of three technically qualified firms. If DPW does not obtain bids from at least three qualified firms, DPW shall prepare a memorandum explaining why less than three qualified proposals were obtained which shall be attached to the Comptroller’s Approval form that is attached to this memorandum as Form # 17.</p>
<p>NEGOTIATION WITH FIRMS</p>	<ul style="list-style-type: none"> • The Selection Committee shall initiate negotiations with the firm determined to be most highly qualified to provide the needed services. • The Selection Committee shall negotiate with the firm to provide such services at a compensation which the Committee determines, in writing, to be fair and reasonable to the County based upon the estimated value of the services to be rendered and the scope and complexity of the project. • If a satisfactory, fair and reasonable agreement cannot be negotiated with the firm considered the most qualified, then the Selection Committee shall terminate negotiations with that firm and similarly negotiate with the second most qualified firm. • Failing accord with the second most qualified firm, negotiations shall terminate with it and then be undertaken with the third most qualified firm and this process shall continue until a satisfactory, fair and reasonable contract has been negotiated. • The procurement may be terminated if the Selection Committee determines that no satisfactory, fair and reasonable contract can be negotiated with any available

	vendor or if the Committee determines for any other reason that it is in the County’s interest to terminate the process.
POST-SELECTION APPROVAL PROCESS	The same post-selection approval process that applies to other personal services contracts applies to approval of contracts for architectural, engineering or surveying services.

VI. SMALL PURCHASES AND DIRECT PURCHASE ORDERS

Small purchases” are purchases of greater than \$100, but under \$10,000. Purchases of \$100 or less are subject to the Comptroller’s Control Directive 1 relating to “Petty Cash Accounts”. Unlike petty cash purchases, “small purchases” can be made only through the Office of Purchasing which will assign a “Purchase Number” to all small purchases. The Office may make small purchases directly on the open market. However, purchases may not be divided artificially into separate lots in order to fall under this exception.

Small purchase procedures are intended to be less formal and simpler than the procedures relating to FORMAL SEALED BIDDING and RFP procurements. For example, there is no need to submit a Request to Initiate form prior to commencing a small purchase. Rules applying to small purchases are set forth in the chart below.

PURCHASES OF LESS THAN \$500	No informal bids need be solicited, but purchase price shall be determined to be fair and reasonable.
PURCHASES BETWEEN \$500 AND \$3000	<ul style="list-style-type: none"> • The Director of Purchasing or his or her designee must obtain verbal price quotes from at least three vendors on the Office of Purchasing’s list of qualified vendors for the good or service. • If there are less than three vendors on the list, the Director or the designee shall solicit quotes from all vendors on the list and shall document why there are no other reasonably available vendors from which to obtain quotes. • In addition, quotes may be solicited from vendors who have replied to prior solicitations or who have been recommended by the department requesting the purchase. • The Director of Purchasing or his or her designee shall set forth in writing the reason for selecting the winning vendor.
PURCHASES GREATER THAN \$3,000 BUT LESS THAN \$10,000	<ul style="list-style-type: none"> • The Director of Purchasing or designee shall issue an RFQ soliciting price quotes in writing or by fax from at least three vendors, again using the Office of Purchasing bidder list. • Again, quotes may also be solicited from other vendors who have replied to prior solicitations or to vendors recommended by the requesting department. • The Director of Purchasing or his or her designee must set forth in writing the reason for selecting the winning vendor.
APPROVAL OF SMALL PURCHASES	Small purchase awards are subject to the same approvals that apply to larger competitively sealed bid purchases after a winning bidder or proposer has been identified.
DIRECT PURCHASE ORDERS	<ul style="list-style-type: none"> • Supplies or other goods that may be needed by multiple agencies often will be contracted for by the Director of Purchasing at the beginning of the year under “<i>blanket contracts</i>”. • The blanket contract normally will be subject to competitive bidding requirements, but after it has been executed, individual departments may place <i>direct orders</i> with the County Office of Purchasing for items purchased under a blanket contract.

	<ul style="list-style-type: none"> • Such direct purchase orders are subject to approval by OMB and by the Comptroller.
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VII EMERGENCIES

When there is an unforeseen danger to life, safety, property or a necessary service, emergency procurement procedures can be used in place of competitive procurement processes.

<p>EXAMPLES OF EMERGENCIES</p>	<p>Conditions that may give rise to an emergency include:</p> <ul style="list-style-type: none"> • Floods • Epidemics • Riots • Fires • Acts of terrorism • Equipment failures • Computer system failures that severely disrupt County operations • Water main breaks • Unforeseen Demolitions • Unanticipated default, bankruptcy or dissolution of contractor upon which the County was relying to complete an urgent project.
<p>EMERGENCY PURCHASES OF GOODS AND NON-PERSONAL SERVICES</p>	<p>Pursuant to section 702 of the County Charter, the County Executive, upon the written recommendation of the Director of Purchasing (or his or her designee), may authorize the Director of Purchasing (or his or her designee) to let contracts for the purchase of supplies, material, equipment or services in connection with the operation, renovation or maintenance of County facilities or equipment without any competitive process when:</p> <ul style="list-style-type: none"> • immediate action is required due to an “accident or unforeseen occurrence or condition affecting: <ul style="list-style-type: none"> ➤ public buildings; ➤ public property or ➤ the life, health, safety or property of the inhabitants” of the County. • The authorization must be in writing unless the nature of the emergency prevents a writing from being obtained. • Such purchases may be only for such amount and term as is necessary to remediate the emergency, as determined

	<p>by the Director of Purchasing or his or her designee. Pursuant to section 2206 of the County Charter, when the County Executive issues a declaration of an emergency that sets forth the nature of the emergency, goods and non-personal services covered under that section may be procured directly without formal sealed bidding.</p>
<p>APPROVAL OF EMERGENCY PURCHASES OF GOODS AND NON-PERSONAL SERVICES</p>	<p>All emergency purchases of goods and non-personal services must be approved by:</p> <ul style="list-style-type: none"> • OMB; and • the Comptroller. <p>Contracts for purchases of goods and non-personal services that must be executed by the County Executive or a designated DCE are additionally subject to approval by:</p> <ul style="list-style-type: none"> • the County Attorney.
<p>LEGISLATIVE RATIFICATION OF EMERGENCY PURCHASES OF GOODS AND NON-PERSONAL SERVICES</p>	<ul style="list-style-type: none"> • Emergency purchases of \$100,000 or more must be ratified by a resolution of the full County Legislature at its next available meeting. • Without such a resolution, any emergency purchase must be limited to a term of one year and to an expenditure of \$100,000 plus any funds expended to remediate the emergency prior to the Legislative Meeting at which there was a vote upon the ratifying resolution.
<p>EMERGENCY PURCHASES OF PERSONAL SERVICES</p>	<p>When the County Executive declares that there is an emergency that requires the immediate procurement of personal services, the County Executive may enter into a personal services contract without soliciting competing proposals.</p>
<p>APPROVAL OF EMERGENCY PROCUREMENT OF PERSONAL SERVICES</p>	<p>Contracts by the County Executive to purchase emergency personal services must be approved by:</p> <ul style="list-style-type: none"> • OMB • the County Attorney; and • the Comptroller.
<p>LEGISLATIVE APPROVAL OF EMERGENCY PROCUREMENT OF PERSONAL SERVICES</p>	<p>Rules Committee approval is required for emergency purchases of personal services in the same cases where it is required for non-emergency purchases, <i>but</i>:</p> <ul style="list-style-type: none"> • In an emergency where there is a threat to of Nassau County residents' or employees' <i>health or safety</i>, the Rules Committee will be <i>deemed</i> to have <i>approved</i> a personal services contract with a person or firm whose aggregate amount of expenditure receipts from the County exceeds \$50,000 for a term of one year if the Legislature does <i>not convene</i> a meeting to act on the

	<p>proposed contract <i>within 12 hours of notice</i> being given to the Chair of the Rules Committee or the Clerk or Presiding Officer of the Legislature.</p> <ul style="list-style-type: none"> • In the event of an emergency that does <i>not</i> threaten the <i>health or safety</i> of Nassau County residents or employees, failure of the Rules Committee to convene within <i>72 hours</i> of the actual <i>notice</i> to consider is <i>deemed an approval</i>.
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VIII SOLE SOURCE

When there is only one source for a good or service, competitive bids or proposals are not required. The chart below sets forth the procedures relating to sole source procurements.

WHEN SOLE SOURCE PROCUREMENT MAY BE USED	<p>Before using sole source procurement, the Director of Purchasing (for purchases made by the Office of Purchasing) or the head of the procuring department (for other purchases) must determine in writing that:</p> <ul style="list-style-type: none"> • there is only one source for a particular good or service that has sufficient experience, skill or knowledge to deliver the goods or services required by the County in the timely manner, provided, however, that a vendor's unique qualification may not be based solely on its having a continuing or historic relationship with the County in providing the solicited service or a related service; • there are no other goods or services that provide the equivalent or similar benefits; and • the cost of the goods or services are reasonable in light of the benefits.
PRACTICAL CONSIDERATIONS	<p>Prior to using a sole source procurement, best efforts shall be made to verify that the County's needs cannot be met by an alternative product or service that may be available from other vendors.</p>
APPROVAL OF SOLE SOURCE CONTRACTS	<p>Sole source contracts must be approved by the same officials as approve competitively selected contracts after a winning bidder has been identified by the Office of Purchasing or the department Selection Committee.</p>

IX PURCHASES FROM, WITH, OR THROUGH OTHER GOVERNMENTS

Agreements to procure goods or services from, with or through other governments can be made without competitive bids or competitive proposals in the following circumstances:

1. Purchases of services *from* New York State departments, public authorities and public benefit corporations.
2. Purchases of surplus and second-hand supplies, material or equipment *from* the federal government, New York State, or from any other municipality, district or public benefit corporation.
3. Municipal Cooperation Agreements to perform services in cooperation *with* other municipalities.
4. Purchases of goods and services *through* the State Office of General Services.
5. Purchases off the contracts of other counties in the State.
6. Purchases of apparatus, materials, equipment and supplies, and to contract for services related to the installation, maintenance or repair of those items, through the use of contracts let by the United States or any agency thereof, any state or any other political subdivision or district therein.

Varying approval processes apply to these procurements. In general, approval by the Legislature is not required. For example, legislative approval is not required for purchases through the State Office of General Services.

It is not practical to describe all the different types of intergovernmental procurements in this Policy. However, since purchasing through State OGS is a commonly and frequently used method of procurement, it will be covered. In the case of all other types of intergovernmental procurement, the County Attorney's Office should be consulted regarding what approvals must be obtained.

OGS' Procurement Services Group has published a "Guide to OGS Contracts" that is designed to assist political subdivisions. The Procurement Services Group also has published an "Index of Commodity, Service and Technology Contracts" that lists the category numbers used

to identify the numerous different types of commodities, services and technology products that OGS procures which are available to counties. The “Guide” and the “Index” are available on the OGS web site at <http://www.ogs.state.ny.us/Purchase/aboutpsg.asp>. In addition, OGS has specific guides for different categories of technology contracts. The categories are: e-Learning Training Services; Electronic On-Line Databases (TBD); IT Services; Microcomputers; Printers; Software; Systems & Peripherals; Networking Hardware and Software; Cable and Installation; Telecommunication Systems; Key Systems (TBD); Digital Centrex Systems (TBD); PBX Systems (TBD); Interactive Voice Response (TBD); Video Conferencing Systems. These specific guides may be found at:

<http://www.ogs.state.ny.us/purchase/snt/awardnotes/tcgSpecificContracts.htm>.

Below is a summary of some of the procedures that the County must follow when purchasing commodities, services or technology through OGS.

<p>REGISTRATION WITH OGS</p>	<p>While OGS contracts can be directly accessed by the County over OGS’ internet web site, OGS advises municipalities first to register with OGS. Registration may be done on-line at: http://www.ogs.state.ny.us/PNS/PurchaserRegistration1.asp. Registering ensures that OGS will send you new guidelines, requirement letters and other important information periodically mailed by OGS. Registering also facilitates prompt responses from OGS to inquiries.</p>
<p>IN WHICH STATE CONTRACTS MAY THE COUNTY SEEK TO PARTICIPATE?</p>	<ul style="list-style-type: none"> • The County is eligible to use only those OGS contracts that have an “<i>Extension of Prices</i>” or a “<i>Non-State Agencies Participation in Centralized Contracts</i>” clause. These clauses extend the price clause of the State contract to political subdivisions of the State that seek to participate in the contract and that provide the contractor with proper tax exemption certificates. • Most contract award notices on OGS’ website specify in the Title section whether political subdivisions of the State may participate. Some specify that they include “political subdivisions” and others state simply that they are “Statewide”, meaning that they are open to all state agencies, political subdivisions and all others authorized by law to participate.
<p>HOW TO USE</p>	<ul style="list-style-type: none"> • State contracts are listed in the OGS web site in four categories: Commodities; Services; Information Technology and

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Telecommunications.

- For commodities contracts, the process normally is simply to place a purchase order with the listed vendor. However, if the contract is a “Filed Requirements” (Definite Quantity) Contract, then the County may participate only if the County filed a “Requirement Letter” well before bids were opened on the contract.
- When OGS is preparing to solicit bids on a Filed Requirements Contract, it sends notices to all eligible entities that have indicated in their registrations with OGS that they might be interested in the item. Attached to the notice is a form “Requirement Letter” that must be submitted by any party that intends to purchase off the contract.
- For many of the Services, Information Technology and Telecommunications contracts, a “How to Use this Contract” document is included on the OGS web site section for the contract. Some of these contracts permit “Direct Purchasing”. Others require that the purchaser engage in “Best and Final Negotiations” or provide a justification for contracting with a sole source. Finally, sometimes purchasers are required to follow a “Formal Mini-Bid” process.
- The ‘*Direct Purchase*’ method permits the purchaser to issue a purchase order directly to a single contractor with whom OGS has negotiated a contract. For certain items, the direct purchase option is available only for purchase under a certain dollar threshold and/or only if the purchase is made from certain vendors. For example, for Information Technology Services, direct purchases may be made from any vendor that has a Back Drop contract with the State only for services of \$15,000 or under. For Information Technology Services between \$15,000 and \$50,000, an authorized user of OGS contracts either can solicit bids from a minimum of three of the available State contractors or make a direct purchase from a New York State certified SBE (small business enterprise) or M/WBE (minority or woman-owned business enterprise).
- Under the “*Best and Final Negotiations*” process, OGS does either a preliminary competitive bid or a negotiated contract where the pricing is a good, competitive price. However, since these OGS contracts are for indefinite delivery and indefinite quantity, the purchaser, at the time of purchase, often can obtain better pricing based on its volume or commitment level, by obtaining a best and final price among OGS contract holders for the specific technology or service in question. Sometimes, the specific contract guidelines require the purchaser to solicit bids from all state contract holder, and sometimes the specific guidelines require obtaining bids from at least three contractors.
- The formal *Mini-Bid* process is explained in OGS’ Mini-Bid Guidelines which are available on OGS’ web site at <http://www.ogs.state.ny.us/purchase/snt/wordfiles/MiniBidGuidelines.doc>. The formal Mini-Bid process is required for all “PBX” contracts

	<p>over \$15,000. PBX is an acronym for Private Branch Exchange which is a private telephone switching system, usually located on a customer's premises connecting a common group of lines from one or more central offices to provide service to a number of individual phones. The formal Mini-Bid Process also generally is required for IT Services contracts over \$50,000.</p> <ul style="list-style-type: none"> • In the formal Mini-Bid process, the purchasing entity must set forth its requirements in a Project Definition (“PD”) or a Request for Training Services (“RTS”). The PD or RTS are issued to qualified Back Drop contractors that submit proposals and the purchaser then determines which proposal gives the best value based upon the evaluation criteria set forth in the PD or RTS.. • Back drop contracts are not contracts to purchase any products or services, but rather enable the selected contractors to be placed on OGS’ list of prequalified vendors from which bids may be selected in a mini-bid process. Most OGS back drop contracts contain maximum prices that the prequalified vendors may not exceed.
20% RULE	<ul style="list-style-type: none"> • Information Technology services do not always have to be procured independently. Sometimes, services can be procured with a technology product. OGS Information Technology contracts contain a “20% Rule” which enables an agency buying the product to buy ancillary services under the same contract for the purpose of customizing the product or for product roll-out and implementation. The 20% Rule allows for a purchase of services for up to 20% of the value of the product and the first year’s maintenance.
PROCUREMENT RECORD	<ul style="list-style-type: none"> • Most OGS contracts, other than those where direct purchases are permitted, require that the buyer maintain a “Procurement Record”. This Procurement Record generally must include: (a) a list of the contractors solicited; (b) copies of all written quotes or proposals received; (c) a document setting forth the evaluation criteria and explaining why the winning contractor was selected. Where only a single source is solicited, there also must be a written justification for why it would be impracticable for any other contractors qualified by State OGS to meet the purchaser’s needs.
PIGGYBACKING	<ul style="list-style-type: none"> • GML § 103 (16) was added to authorize political subdivisions, such as the County, to purchase apparatus, materials equipment and supplies, and to contract for services related to the installation, maintenance or repair of those items, through the use of contracts let by the United States or any agency thereof, any state or any other political subdivision or district therein. • There are three prerequisites that must be met in order for a procurement of apparatus, materials, equipment and supplies, and related installation, repair and maintenance services, to fall within this exception:

	<ul style="list-style-type: none">○ The contract must have been let by the United States or any agency thereof, any state or any other political subdivision or district therein. Contracts developed for use by local governments that are let by private parties (e.g., a private company, association or not-for-profit corporation is the party awarding the contract to the vendor), and not by the United States or any agency thereof, any state or any other political subdivision or district therein, would not fall within the exception.○ The contract must have been made available for use by other governmental entities. This means that the other governmental entity has taken steps to make its contract available for New York local governments. In general, this would occur by inclusion in the contract let by the other entity of a clause extending the terms and conditions of the contract to other governmental entities.○ The contract must have been “let to the lowest responsible bidder or, if authorized by local law, on the basis of best value in a manner consistent with this section.” The term “consistent with this section” refers to General Municipal Law § 103 (and related case law) applicable to New York State political subdivisions. The purchasing local government would need to obtain background information on the procedures used to let the contract and, as necessary, consult with its counsel, to determine whether this prerequisite is met.● There are four fundamental elements that should be present in the procedures used by the non-New York entity in letting its contract in order for the process to have been let to the lowest responsible bidder or on the basis of best value consistent with GML § 103.<ul style="list-style-type: none">○ A public solicitation is consistent with the statutory advertising requirement in GML § 103, and serves to ensure that the purposes of GML § 103 are furthered.○ A secure competitive bidding or, if authorized under local law, a best value process, in each case, that is consistent with the sealed competitive bidding and competitive offering requirements of GML § 103 and helps foster honest competition and guard against collusion.○ The contracting entity should convey the nature of the goods or services and other information necessary for prospective bidders or offerers to make an intelligent evaluation and bid or offer, without being unduly restrictive. In the case of a best value process, this generally should include a description of the manner in which the evaluation of the offers and award of the contract will be conducted and, as appropriate, identify the relative importance or weight of price and non-price factors
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	<ul style="list-style-type: none"> ○ Award to the lowest bidder who materially or substantially meets the bid specifications and is determined to be a responsible bidder, or in the case of a best value process, an award to the responsive and responsible offerer which optimizes quality, cost and efficiency, reflecting objective and quantifiable analysis, whenever possible. A contract awarded through a negotiation process would not be consistent with the requirements and purposes of awarding to the lowest responsible bidder or on the basis of best value in a manner consistent with GML § 103.
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X. PREFERRED SOURCES

Under certain circumstances, the County is required, pursuant to Section 162 of the State Finance Law, to purchase commodities and services enumerated on “the List of Preferred Source Offerings” published by the State Office of General Services (“OGS”) from certain specified “Preferred Sources”. OGS’ guidelines for Preferred Source procurement are published on the OGS web site at <http://www.ogs.state.ny.us/procurecounc/psguidelines.asp>. Those guidelines must be consulted by the Office of Purchasing and DPW prior to letting any contract. Certain significant portions of those guidelines are summarized in the table below.

<p>PREFERRED SOURCES AND FACILITATING AGENCIES</p>	<p>“Preferred Sources” include:</p> <ul style="list-style-type: none"> • <i>Commodities</i> produced by the State Department of Correctional Services' Correctional Industries Program (<i>CORCRAFT</i>). • <i>Commodities and Services</i> produced by any qualified, charitable, <i>non-profit-making agency for the blind</i> approved by the State Commissioner of Social Services. • <i>Commodities and Services</i> produced by any <i>special employment program serving mentally ill persons</i>, operated by facilities within the <i>State Office of Mental Health</i> and approved by the Commissioner of Mental Health. • <i>Commodities and Services</i> produced by any qualified, charitable, <i>non-profit-making agency for the other severely disabled persons</i> approved by the State Commissioner of Education.
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	<ul style="list-style-type: none"> • <i>Commodities and Services</i> produced by a <i>qualified veterans' workshop</i> providing job and employment skill training to veterans, operated by the <i>United States Department of Veterans Affairs</i>, that manufactures products or performs services within the State and is approved by the Commissioner of Education. <p>OGS has designated a number of non-profit organizations to act as “Facilitating Agencies” for Preferred Sources. Facilitating agencies serve the preferred sources as their agent by disseminating information regarding preferred sources and their offerings, by processing inquiries and orders as a "one stop" contact for purchasers, and by facilitating the distribution of those commodities and services provided by preferred sources.</p>
<p>PRIORITY AMONG PREFERRED SOURCES</p>	<p>Commodities available in the form, function and utility required by the County must be purchased from preferred sources in the following prioritized order:</p> <ul style="list-style-type: none"> 1st - Department of Correctional Services' Correctional Industries Program. 2nd - Approved, charitable, non-profit making agencies for the blind; 3rd - Equal priority to approved, charitable, non-profit-making agencies for the severely disabled, qualified special employment programs for mentally ill persons, and qualified veterans' workshops. <p>Services available in the form function and utility required by the County must be purchased from a preferred source. Equal priority is accorded to approved, charitable, non-profit-making agencies for the blind, other severely disabled persons, qualified special employment programs for mentally ill persons and qualified veterans workshops. If more than one preferred source meets the service requirements, cost shall be the determining factor in selecting among the qualified sources.</p>
<p>APPROVAL OF PREFERRED SOURCE PURCHASES</p>	<p>Preferred source purchases must be approved by:</p> <ul style="list-style-type: none"> • OMB • The Comptroller.

XI. ETHICS

Nassau County employees are bound by the County’s Code of Ethics set forth in Section 2218 of the Nassau County Charter and Section 22-4.2 of the Nassau County Administrative Code, as well as by Article 18 of the General Municipal Law (“Conflicts of Interest of Municipal

Officers and Employees”). Employees are responsible for informing themselves of all these requirements and complying with them. This section does not purport to be a comprehensive guide to such ethical considerations, but is merely a summary of those ethical guidelines that apply to the procurement process. A further summary of ethics provisions that has been published by the Board of Ethics is attached to this Policy/Procedure.

<p>GENERAL PRINCIPLES</p>	<p>County employees having discretionary responsibility for contracting at all levels shall:</p> <ul style="list-style-type: none"> (i) encourage competition, prevent favoritism, and obtain the best value in the interest of the County and the taxpayers; (ii) place professional responsibilities above personal interests; (iii) ensure fair competitive access to County procurement opportunities; (iv) deal with the public and with vendors with courtesy, consideration and even-handedness; (v) not engage in any communication regarding the procurement with employees, agents, consultants or lobbyists of a bidder or proposer after the official commencement of a competitive procurement process (by the publication of an Invitation to Bid or RFP or similar action), except in such manner as is specifically authorized by the Invitation to Bid, RFP or other written instructions issued to bidders or proposers; (vi) use information gained confidentially in the performance of County duties solely in the County's interest; and (vii) report corruption and unethical practices, wherever and whenever discovered, to the appropriate official, and/or take such other action as is warranted by the situation
<p>CAMPAIGN CONTRIBUTIONS</p>	<p>In soliciting, awarding, or administering a procurement, under no circumstances may an official or employee take into consideration the fact that a vendor or associated individual(s) has or has not made or promised to make a campaign contribution.</p>
<p>WHEN THE EMPLOYEE IS UNSURE</p>	<p>When an employee has doubt as to whether conduct is prohibited by Nassau County’s Code of Ethics or by Article 18</p>

WHAT IS ETHICALLY REQUIRED	of the General Municipal Law, he or she should first consult with agency counsel and then, if necessary, with the County Attorney's Office. If he or she remains in doubt, then he or she should seek an opinion from the County Board of Ethics.
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XII. MINORITY AND WOMEN BUSINESS ENTERPRISE (“MWBE”) PROGRAM

Nassau County is committed to promoting the opportunity for meaningful participation by minority and women-owned business enterprises in County contracting opportunities. In 2002, the County Legislature adopted Title 53 of the Miscellaneous Laws of Nassau County which authorized the County to create an MWBE program. Pursuant to Section 106 of Title 53, the County undertook a “disparity study”, which is a study of the utilization of minority and women-owned business enterprises (M/WBEs) as subcontractors on certain County contracts compared with the availability of such firms to perform such work. The County contracts covered by the certified M/WBE program are those for goods and non-construction services that exceed \$25,000, and those for construction services (including acquisition, construction, demolition, replacement, major repair or renovation of real property) that exceed \$100,000.

The final report of the disparity study is due on October 31, 2004 and is likely to demonstrate significant underutilization of minority and women-owned business enterprises as subcontractors on county contracts. As a result, the Director of the Nassau County Office of Minority Affairs (the “Office of Minority Affairs) will promulgate goals for utilization of certified M/WBEs on County contracts and will establish contract specific requirements for the utilization of certified M/WBEs as subcontractors on County contracts. Contracting agencies shall monitor contractor compliance with utilization requirements. Where a contractor is unable, despite its best efforts, to fully comply with a utilization plan, it will be permitted to apply to the

contracting agency for a waiver and to appeal to the Director of the Office of Minority Affairs if the contracting agency denies a waiver.

Pursuant to Section 106 of Title 53, the County has already begun making affirmative efforts to promote participation by minority and women-owned business in County contracting opportunities. Under current law, the Office of Minority Affairs is notified whenever the County is soliciting bids or proposals on a contract and the Office of Minority Affairs then makes outreach efforts to qualified minority and women-owned business that it believes may have an interest in bidding. In addition, the Office of Minority Affairs has held and continues to hold workshops directed at assisting minority and women-owned small businesses, covering such topics as how to do business with the County and on all aspects of small business development, including financing, business planning, tax planning and preparation and marketing.

XIII. FORMS

The County uses a number of forms in connection with its procurement procedures. These forms are listed below and copies of each are available in a separate manual of procurement forms.

FORMS:	#1	“Invitation to Bid”
	#2	“Blanket Purchase Order”
	#3	“Purchase Order”
	#4	“Legal Advertisement”
	#5	“Vendor/Bid List Request Form”
	#6	“Application for Registration as Bidder”
	#7	“Formal Sealed Bid Proposal”
	#8	“Amendment to Formal Sealed Bid”
	#9	“Summary of Bids” worksheet”
	#10	“Formal Bid Recommendation”

- #11 “Cancellation of Bid”
 - #12 “Staff Summary
 - #13 Rules Committee Resolution form
 - #14 “Request to Initiate” Form
 - #15 “Model Base Form” for Personal Services Contracts and Instructions
 - #16 “Advisement/Contract Summary/Routing Slip” form
 - #17 “Comptroller Approval” form for personal, professional or human services contracts.
- Sample RFP
- Sample Rating Sheet