

RESOLUTION NO. 2022 - 27

**A RESOLUTION OF THE BOARD OF SUPERVISORS,
COUNTY OF INYO, STATE OF CALIFORNIA,
AMENDING THE INYO COUNTY PURCHASING AND CONTRACTING POLICY**

WHEREAS, the Inyo County Board of Supervisors is engaged in a comprehensive overhaul of Inyo County's purchasing and contracting policies and procedures;

WHEREAS, this project includes updating both Title VI of the Inyo County Code and the Inyo County Purchasing and Contracting Policy;


WHEREAS, pursuant to Inyo County Code section 6.04.020, the Inyo County Board of Supervisors may adopt by resolution policies and procedures to governing the purchasing and contracting process, which shall be entitled the "Inyo County Purchasing and Contracting Policy and Procedures Manual."

NOW THEREFORE BE IT RESOLVED by the Inyo County Board of Supervisors that,

1. The document attached hereto as Exhibit A shall become the operative Inyo County Purchasing and Contracting Policy and Procedures Manual on September 9, 2022.
2. The document attached hereto as Exhibit A shall supersede any previous versions of the Inyo County Purchasing and Contracting Policy and Procedures Manual.

PASSED AND ADOPTED this 2nd day of August, 2022, by the following vote:

AYES: -5- Supervisors Griffiths, Kingsley, Pucci, Roeser, Totheroh
NOES: -0-
ABSTAIN: -0-
ABSENT: -0-



DAN TOTHEROH, Chairperson
Inyo County Board of Supervisors

ATTEST: Leslie Chapman
Clerk of the Board

By: 

Darcy Ellis, Assistant
Assistant Clerk of the Board

Exhibit A

Inyo County Purchasing and Contracting Policy

Adopted Pursuant to Resolution No. 22-XXX
Effective Date: September 9, 2022



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I. Introduction

The purpose of this Purchasing Policy Manual, which has been approved by the Board of Supervisors pursuant to Resolution No. 22-XXX, is to set forth how purchasing activities are to be conducted in Inyo County. Specifically, this manual establishes the policies and procedures that govern the daily implementation of the County's Purchasing and Contracting Ordinance, found in Title 6 of the Inyo County Code. Nothing in this policy is intended to supplant or contradict the rules set forth in Title 6. Rather, this policy is intended to assist County staff in properly implementing Title 6. As long as they do not contradict the rules found within Title 6, any rules or procedures contained within this Policy are binding rules that carry the same force and effect as any rules found in Title 6.

There are six different types of purchases that the County makes: goods, services, real property / leases, public works projects, road projects, and bridge projects. The same rules and procedures apply to the procurement of personal property and services, so that means that there are five different sets of rules that County employees must be aware of when making purchases. Each of these five sets of rules is handled in detail in the sections below.

It is Inyo County's goal is to provide autonomy to department heads and elected officials to spend their budgeted funds in whatever manner they think will best effectuate their policy goals. The Board of Supervisors trusts that department heads and elected officials will spend County funds responsibly and ethically and will exercise due diligence to price shop and obtain the best value for the County.

All employees are encouraged to read the entirety of this Policy. County Counsel, County Administration, the Budget Team, the Auditor, and your supervisor are also available to answer any questions that you may have regarding purchasing rules and procedures.

II. General Procedures Applicable to All Procurements

A. Authority of Department Heads and the County Purchasing Agent

The Board of Supervisors appointed the County Administrative Officer to serve as the Purchasing Agent for Inyo County. Additionally, via both this Policy and Title 6 of the Inyo County Code, the Board of Supervisors and the Purchasing Agent delegated various purchasing powers to department heads.¹ Department heads must carefully review this Policy, the Inyo County Code, and applicable state laws to determine who has the ability to authorize a purchase. Regardless of the delegated purchasing powers, for all purchases, the Purchasing Agent retains the power to overrule any purchasing decision made by a department head.

B. Failure to Comply with the Purchasing Policy

Compliance with this Policy and Title 6 is a serious matter. The County understands that purchasing rules are complex, and employees often make good-faith mistakes when procuring goods, services, or property. This section is not intended to apply to such good-faith mistakes. Rather, this section is intended to apply to County employees who knowingly circumvent purchasing procedures. Such actions will not be tolerated in Inyo County.

Examples of noncompliance with this Policy or Title 6 may include, but are not limited to:

1. Knowingly exceeding delegated purchasing authority – e.g. entering into a contract for \$55,000 without taking that contract to the Board for approval after you have been informed by County Counsel that such contracts require Board approval
2. Dividing a single purchase order by utilizing multiple PO's to avoid approval limits – e.g. dividing an order for office supplies into two orders of \$26,000 to avoid the \$50,000 approval limit
3. Displaying favoritism or nepotism in compiling quotations – e.g. directing a contract toward a family member's business by purposefully seeking informal bids that are higher than the price provided by the family member's business²
4. Purchasing for personal use – e.g. an employee purchases extra cleaning supplies so that they may take some home for personal use

Any failure to abide by this Policy or Title 6 may result in consequences for the individual employee and the department as a whole. Per Government Code section 29121, any amount spent by a department head in excess of their authorized budget appropriation shall be a personal liability of the department head.

In addition to personnel actions or civil/criminal liability, the Purchasing Agent and/or Auditor may also enforce this Policy or Title 6 by conducting random audits of a department's purchasing activity and imposing consequences should the audits repeatedly reveal noncompliance with this Policy.

¹ Any reference to department heads also includes elected officials.

² Employees are also encouraged to familiarize themselves with Inyo County's Fraud, Waste, and Abuse Policy. Many of the issues outlined in this section are also covered in the Fraud, Waste, and Abuse Policy.

C. Commitment to a Competitive Process

Inyo County is committed to always seeking the best value possible for any goods, services, or property that it might procure. To that end, this Policy and Title 6 require procedures such as sealed bids or informal quotes for the vast majority of purchases. However, the County also recognizes that the value of the time spent requesting bids or comparing prices for certain small purchases could exceed the savings that comes with the competitive process. Accordingly, as outlined in more detail in the subsequent sections, some purchases do not require a competitive process. Regardless, price shopping is always encouraged.

D. Exceptions to the Competitive Process

Situations may arise where an employee finds it impossible or unreasonable to comply with the competitive process. These situations are described in more detail below. County employees should keep in mind that these situations are the exception, not the norm. **Additionally, any purchase that will be conducted under one of the exceptions enumerated below must be approved by County Counsel, the Auditor, and the Purchasing Agent, regardless of the dollar amount of the procurement.**

1. Sole Source Procurements.

A sole source procurement may be justified in the following situations:

- The capability of the proposed contractor is critical to the specific effort and makes the contractor clearly unique compared to other contractors in the general field
- The proposed contractor has prior experience of a highly specialized nature that is vital to the proposed effort
- The proposed contractor has facilities, staffing, or equipment that are specialized and vital to the services being requested
- The proposed contractor has a substantial investment that would have to be duplicated at the County's expense by another contractor entering the field
- A critical proposed schedule for the service and/or product that only one proposed contractor can meet
- A lack of competition because of the existence of patent rights, copyrights, trade secrets, and/or location

Sole source procurements are the exception, not the norm. They are to be used sparingly and shall not be used in lieu of any competitive process simply because the department failed to allot sufficient time to engage in the competitive process or because the department finds the competitive process to be onerous.

2. Emergency Situations

Emergency situations are *unforeseeable* events that necessitate the immediate spending of money to remedy them. Unforeseeable events do not include problems brought about by poor planning.

In other words, a department's failure to prepare a RFP/RFQ in time to solicit bids does not constitute an emergency. Emergencies can arise in such vast and varied circumstances that providing comprehensive examples is almost impossible. However, generally, when public health or welfare necessitates that a department immediately spend money, they may do so without any adherence to the competitive processes or approval limits set out in this Policy. Unless the purchase is made during a formally declared state of emergency (see Section VII), the department must seek retroactive approval of the purchase from the Board of Supervisors as soon as possible.

3. Repair of cars or heavy machinery

When a car or piece of heavy machinery breaks down, it does not make sense to tow that machinery from shop to shop to obtain quote from various mechanics to fix the machinery. Those towing costs generally negate the cost savings realized from obtaining bids. Therefore, departments such as Motor Pool or the Road Department may dispense with the competitive process when it would be expensive and difficult to transport the broken car or machinery to multiple mechanics. However, any department that utilizes this exception is encouraged to utilize vendors that are known to provide a good value to the County.

4. Emergency repairs

Like all buildings and facilities, County facilities sometimes experience unexpected problems with crucial systems, like HVAC, electrical, appliances, or plumbing. These problems need to be remedied immediately, as they often interfere with the ability of County employees to do their jobs. Therefore, there is no time to obtain bids in these situations. This exception also applies to County-operated utility systems, such as the County water system in Lone Pine, Independence, and Laws.

Repairs performed pursuant to this section will often also qualify as emergency public works projects. Review Section VII(B) of this Policy for more information on such purchases.

5. Ongoing maintenance provided by a manufacturer

Certain products or software require ongoing maintenance, updates, or trainings that can only be provided by the product manufacturer. Departments may treat contracts for such services as sole source procurements. When making the initial purchase of a product that will require ongoing maintenance from only one vendor, the Department is encouraged to try to negotiate a price for that ongoing service as part of the initial procurement.

6. "Piggyback" purchasing

In situations where another government agency has already engaged in a competitive procurement process and the vendor is willing to offer the same contract terms to Inyo County as the other government agency, Inyo County is permitted to procure goods or services from that vendor without engaging in the competitive process. This exception exists because, if another government agency has already taken the time to obtain competitive bids, then there is little

value to be gained by having Inyo County repeat the same process. Before engaging in “piggyback” purchasing, the department must review the purchasing and procurement policies of the original government agency to ensure that that agency’s standards are at least as rigorous as Inyo County’s and to ensure that the price of the good or service offered is at or below the market rate.

Piggyback purchasing is also permitted with non-governmental purchasing collectives, such as Sourcewell.

E. Out of State Vendors

Purchasing from vendors or contractors located outside of California requires some extra paperwork, primarily related to state tax withholding issues. Departments are encouraged to consult with the Auditor to ensure that they comply with all requirements. However, at a minimum, out of state vendors generally require the following:

- A current W-9 on file with the Auditor
- A CA State Board of Equalization Tax Permit number, if the vendor charges sales tax
- Completed California withholding tax forms

F. Local and Small Business Purchasing Preference

Inyo County wants to spend its money in a manner that encourages the growth of local and small businesses because such businesses contribute to the community and local economy. These benefits often justify choosing a small and/or local company over a large and/or non-local company, even if the small / local company is slightly more expensive than other bidders. Accordingly, Inyo County applies a purchasing preference of 8% for local businesses or 5% for small businesses. Inyo County also applies a 5% purchasing preference for primary contractors if the primary contractor will direct 10% or more of the value of the work to be performed under the contract to subcontractors that qualify as a small or local business.

In practice, this means that, all other things being equal, if a department receives a bid from a local business that is up to 8% higher than non-local respondents, the department must consider the local business’s quote to be of an equal amount to the non-local business’s quote. The same rule applies for small businesses, but in this situation, the preference is only 5%.³

Note, however, that there is no requirement to accept a quote or bid from a local or small business if the non-local or non-small business will provide a higher value product or service to the County. In other words, while the County will discount the prices quoted by local or small businesses in an effort to foster beneficial economic activity, nothing obligates the County to purchase a product or service that it knows to be subpar simply because that product or service comes from a local or small business.

³ Bidders may not “stack” purchasing preferences. In other words, a bidder who qualifies as both a small and a local business would not get a 13% preference.

Finally, for purchases that are funded with non-County funds (e.g. state or federal grants), departments are cautioned to carefully review the rules associated with the grant or outside funds. Some outside funds prohibit the application of small or local business preferences or they have their own rules regarding preferences (e.g. some federal funds require the application of a minority-owned business preference).

G. Insurance Specifications for Contracts

With some limited exceptions, the County generally requires all vendors or consultants who provide products or services to the County to maintain insurance. This insurance is necessary to protect the County in the event that the vendor or consultant fails to perform under the contract or in the event that the vendor or consultant harms a third party in the course of providing products or services for the County.

Before entering into a contract with a vendor or a consultant, you must consult with Risk Management to determine the level of insurance that Risk will require the vendor or consultant to carry. The insurance that the County requires varies based on the risk inherent in the product or service that is being provided, the value of the contract, and many other factors. You should consult Risk Management regarding insurance requirements early in the RFP/RFQ process so that you can inform potential respondents of the level of insurance that the County will require them to carry.

H. Document Retention and Management

All documents related to purchasing must be retained for a period of three years. It is the responsibility of the department making the purchase to ensure proper document retention. Electronic retention is fine; there is no need to maintain paper copies of records so long as you have scanned a copy of the document to PDF.

Note that certain purchases may require longer retention periods, but three years is the default rule in the absence of a more restrictive rule.

In addition to legal retention requirements, departments are also advised to keep an organized file related to their purchasing activity so that the Purchasing Agent or Auditor can exercise their power to audit a department's purchasing activity and so that the department can provide back-up documentation as needed to pay their bills. For example, a purchase of goods between \$5,001 and \$10,000 requires three informal bids and department head approval. If a department is making a purchase of \$7,000 of goods, the department must retain copies of the three (or more) informal bids that it sought for at least three years. These retention rules apply even when the department does not have to seek outside approval to make the purchase – i.e., when the department head is the sole approval authority and the purchase is made on a County credit card, not through the Auditor.

I. Paying for Purchases

After choosing a vendor and complying with all of the various procedures outlined in this Policy, the department must memorialize and effectuate the purchase. In the case of simple or relatively small purchases, this may require nothing more than swiping a County credit card.

For vendors that do not take credit cards or for purchases that are more complex, a department has two options. First, the department may obtain a purchase order from the Auditor. A purchase order is essentially a “mini contract” and memorializes what the vendor is selling, how much the County will pay, and the terms of the sale. Departments are encouraged to use purchase orders for situations that are too complex or expensive for credit cards, but not complex enough for a full-blown contract. The Auditor will then prepare a check to the vendor pursuant to the purchase order. Second, the department may use a standard County contract prepared by County Counsel and available on the intranet. Contracts are necessary when the County is purchasing services or for situations where the County will be making defined payments over a period of time. Departments are encouraged to consult with County Counsel if there is any confusion as to the use of a purchase order versus a contract.

For all purchases, department should be prepared to provide documentation to demonstrate compliance with this Policy. This documentation must be provided to departments such as the Auditor, the Purchasing Agent, County Counsel, and any other department that has a role in approving purchases or ensuring compliance with this Policy.

J. Compatibility Issues When Purchasing

When departments work together to tap into each other’s expertise, the County enjoys greater efficiency and cost-savings. This is particularly true in the purchasing realm when departments are buying specialized items that could have compatibility issues with existing items. A good example of this is technology-related purchases; for example, certain tablets may not be compatible with the County’s current computers, so any department wanting to buy tablets would be well served to verify compatibility with Information Services before making any purchases. Therefore, for all purchases in the following categories, departments must obtain the approval of the departments listed below:

Purchase Type	Approval Required From
Technology (e.g. phones, tablets, computers, printers)	Information Services
Transportation (e.g. cars, car accessories)	Motor Pool

Exceptions for IS approval for technology-related purchases include: Mouse, keyboard, disposable items (e.g., toner cartridges, inkjet cartridges for printers, etc.), printer cables, noise cancelling headphones, battery back-ups, privacy filters, and laptop cases.

III. Procurement of goods and services (Inyo County Code Chapter 6.10)

The procurement of goods and services follow the same rules (with one exception, as detailed in section III(E) below) and will be both be described in this section. The chart below summarizes the key rules with respect to the procurement of goods and services, and each section below describes each level of purchasing in more detail:

Amount	Required Action	Approval Authority
Less than or equal to \$5,000	Compliance with the competitive process is not required, but price shopping is encouraged.	Department Head or designee
\$5,001 to \$10,000	Three informal bids (e.g. printouts from websites showing prices or quotes solicited from vendors) must be obtained.	Department Head
\$10,001 to \$25,000	Three informal bids (e.g. printouts from websites showing prices or quotes solicited from vendors) must be obtained.	Department Head and Purchasing Agent
\$25,001 to \$75,000	A formal RFP or RFQ must be prepared and publicized, with sealed submissions opened on a predetermined date.	Department Head and Purchasing Agent
Over \$75,000.00	A formal RFP or RFQ must be prepared and publicized, with sealed submissions opened on a predetermined date.	Board of Supervisors

A. Less than or equal to \$5,000

These purchases can generally be made without any specific competitive processes, but departments are encouraged to price shop to ensure that the County is getting the best value for its money. That said, the County recognizes that for these lower value purchases, the cost of the employee time spent price shopping can often exceed the savings to be realized from price shopping. Therefore, departments are encouraged to holistically consider all factors when determining how to obtain the best value for the County.

At the discretion of individual department heads, these purchases may also be approved by designees within the department – for example, deputy directors or assistant directors.

B. Between \$5,001 and \$25,000

Purchases in this dollar range require three informal bids, but approval authority differs based on the amount of the purchase. For purchases less than or equal to \$10,000, the department head is the only approver necessary. For purchases less than or equal to \$25,000, both the department head and the Purchasing Agent must approve the purchase.

An informal bid can consist of either a printout showing the price of an item or service or a quote prepared by a vendor. All quotes must be in writing. Verbal quotes are not sufficient. If a vendor provides a verbal quote, the employee must request written confirmation via a confirmatory email or letter. The employee soliciting the quotes may choose which vendors to contact, but all employees are encouraged to focus their requests toward local vendors, to the extent that a local vendor can provide the item or service needed.

If an employee requests a quote from a vendor and the vendor does not respond within 72 hours, then the employee may still count that request toward the three quotes that they are required to obtain. That vendor, however, may be eliminated from the selection process at the employee's discretion. If no vendors respond to a request for quotes, the department may make the purchase without complying with any further competitive processes.

When assessing quotes, a department is not required to choose the lowest cost vendor. In fact, departments are discouraged from looking only at cost and should assess vendors holistically to determine which vendor can provide the overall best value to for the County. Factors that should be considered in addition to price include, but are not limited to, delivery time, the vendor's willingness to use an Inyo County standard contract or purchase order, the vendor's reputation in the industry, the quality of the vendor's product, and the vendor's return policy.

A department is never required to accept a quote, and when assessing quotes, a department may determine that none of the quotes obtained are responsive to their request or sufficient to meet their needs. If a department rejects all quotes, then the department may proceed with the purchase as if they are making a purchase of less than \$5,000.

C. Between \$25,001 to \$75,000

Purchases over \$25,000 but below \$75,000 require a formal Request for Proposals ("RFP") or Request for Qualifications ("RFQ"). These formal RFP/RFQs differ from informal quotes in that the department leading the procurement must prepare a written description of the item or service that it is seeking. Vendors may then respond to the RFP/RFQ with a proposal. The department will open all responses on a set date and time and will choose the vendor who provides the best overall quality and value to the County.

Department have significant freedom to structure the RFP/RFQ process in whatever manner works for them, and the County encourages departments to be creative with their RFP/RFQs to ensure that they receive the maximum number of responses. That said, there are some rules that all RFP/RFQs must follow:

- Cannot favor one brand over another. For example, a RFP for a car may request a mid-sized crossover vehicle that seats 5 people with all-wheel drive and that has a dealership within 60 miles of Independence, CA. Conversely, the RFP may not specify that the County is seeking bids for a Honda CRV or a Toyota RAV4. However, it may be the case, that in certain situations, only one brand is compatible with a department's existing equipment. In this case, the department may explain their existing equipment in the RFP

and state that they are seeking bids only for brands that are compatible with the existing equipment.

- Must be published in specified sources. RFP/RFQs best serve the purpose of increasing competition and ensuring unbiased procurements if the County receives multiple responses to the RFP/RFQ. The County can only receive multiple responses if vendors and the general public are made aware of the RFP/RFQ. Accordingly, at a minimum, all RFP/RFQs must be published on the County website and in a local printed newspaper of general circulation for at least 10 days. Department heads are also encouraged to make efforts to publish the RFP/RFQ in industry-specific sources or send the RFP/RFQ to vendors who might be interested in responding.
- Bids must be sealed. All RFP/RFQs must instruct respondents to submit their proposals in a sealed envelope. These sealed proposals must all be opened at a specified time with at least two employees observing the opening. All RFP/RFQs must instruct respondents that they are not allowed to discuss the contents of their proposal with County employees before the opening date. Any respondent who does so will be disqualified. Respondents may ask the County employee managing the RFP/RFQ clarifying questions, but those questions should not reveal the contents of the bidder's proposal. Any questions that a County employee answers must be posted publicly (for example, online) so that all respondents have access to the same information when formulating their proposals.
- Must include a copy of the contract that the department will ask the vendor to enter into. All RFP/RFQs must include a copy of the standard County contract that the department wants the respondent to enter into. Departments should consult with County Counsel to determine the appropriate contract prior to releasing the RFP/RFQ. Departments are also encouraged to include a scoring rubric with the RFP/RFQ so that respondents know how their responses will be scored.
- Must be reviewed by County Counsel. All RFP/RFQs must be reviewed by County Counsel to determine compliance with all laws and legal requirements.
- Must include an admonition that all responses are considered public records. Due to the County's obligations under the Public Records Act, all RFP/RFQs must warn respondents that any documents that they submit to the County—such as price lists, customer lists, or business plans—may be disclosed to any member of the public upon request.
- Must include a statement that any bidder who wishes to challenge the bidding or procurement process must file a complaint in conformance with Chapter 6.30 of the Inyo County Code.

As with informal bids, when assessing RFP/RFQ responses, departments are encouraged to consider the value of the whole package, rather than considering only price. Additionally, if a department receives no responses to a RFP/RFQ or determines that none of the respondents meet the minimum standards set forth in the RFP/RFQ, the department may make the purchase or enter into a contract with no further compliance with the competitive process.

Once the department has selected a winning respondent and finalized negotiations over contract terms with the respondent, the department head must seek approval from the Purchasing Agent before executing the contract with the vendor. Additionally, all contracts must be reviewed and approved by County Counsel, Risk Management, the Auditor, and Personnel. When reviewing the procurement, all reviewers shall ensure that the department has complied with all Title VI of the Inyo County Code, this Policy, and any other purchasing requirement. Departments are strongly encouraged to vet their RFP/RFQ with the reviewing departments *before* releasing the RFP to the general public. This will allow reviewing departments an opportunity to correct any errors or problems with the RFP that could result in one of the reviewing departments refusing to approve the final contract.

D. Over \$75,001

The rules and process governing RFP/RFQs for procurements or contracts over \$75,000 are the same as RFP/RFQs for purchases between \$25,000 and \$50,000. However, the final step in the process differs, as procurements over \$75,001 must be approved by the Board of Supervisors. Therefore, these contracts must be placed on the Board of Supervisor's agenda through Civic Clerk.

E. "Per Vendor" Versus "Per Purchase" Limits

There is one important way in which the purchase of goods and service differ. When it comes to goods, the limits provided above apply only to each individual purchase. The limits do not consider the aggregate total purchased from a single vendor in one year. In other words, if a department buys \$500 worth of tools on 100 occasions during a fiscal year from a single vendor, these purchases are assessed as 100 individual purchases. Because each of these purchases is below \$1,000, no competitive process is required. This is a notable change from past practice, when this purchasing pattern would have required a blanket purchase order.

On the other hand, per Government Code section 25502.3, dollar limits for the purchase of services must be considered on an aggregate basis. Therefore, if a department were to purchase \$500 worth of plumbing services on 100 different occasions during a fiscal year, that would have to be treated as a purchase for \$50,000. Per the limits set forth above, a \$50,000 purchase would require a RFP/RFQ and Board approval of the contract. In a sense, then, blanket purchase orders still exist, but only when it comes to the purchase of repeated services.

F. De Minimus Contract Changes

For contracts that require Board approval, no aspect of the contract can be changed post-approval without a formal amendment. However, occasions sometimes arise when a department needs to make a minor change to the dollar amount of a contract. In these cases, where the change is de minimus, it is not a good use of the department's or the Board of Supervisor's time to have to go through the formal amendment process to make such a minor change. Accordingly, for contracts that require Board approval, the Purchasing Agent may authorize an increase in the contract amount up to \$5,000 on one occasion during the life of the contract. For contracts below

\$75,000, the Auditor or the Purchasing Agent may authorize an increase in the contract amount up to \$500 on one occasion.

IV. Procurement of Real Property and Leases (Inyo County Code Chapter 6.24)

All purchases and leases of real property must be completed by the Board of Supervisors. In other words, there is no delegated authority for a department or the Purchasing Officer to lease or purchase real property without Board approval. Accordingly, leases and purchases of real property will be handled on a case-by-case basis, rather than being described in this Policy.

There are some limited exceptions to this rule, as described in section 6.24.040 of the Inyo County Code. These exceptions generally relate to lease that are either of a very short-term (e.g. the use of a County park for an afternoon) or of a very small piece of property (e.g. an airport hangar).

V. Procurements Related to Public Works Projects (Inyo County Code Chapter 6.14)

A public works project is any purchase associated with the “construction, improvement, alteration, painting or repair of any public building or facility identified in Public Contract Code Section 20121 or 20150.2.” Unlike the purchase of goods and services, where the County has significant freedom to set rules and dollar limits, public works projects are controlled by highly specific state laws. These laws are primarily found in the Public Contract Code, Division 2, Part 3, Articles 3.5 and 3.6 (section 20120, *et seq.*). Additionally, because Inyo County has chosen to opt into the California Uniform Public Construction Cost Accounting Act, public works purchases must also comply with Public Contract Code section 22000, *et seq.*

Because state law is so specific and detailed when it comes to public works projects, Title VI and this Policy provide less information regarding public works projects. Therefore, any County employee engaging in a public works project must understand that this Policy does not provide a complete picture regarding the rules governing public works projects and should also review the relevant sections of the Public Contract Code.

Per CUPCCAA, the bidding requirements for Public Works projects are as follows:⁴

Amount	Required Action	Approval Authority
Less than \$60,000	No specific competitive process is required. The work may be performed by County staff, by a contract negotiated directly with a qualified individual, or by purchase order.	Public Works Director
Between \$60,001 and \$200,000	Three informal bids must be obtained per the procedure set forth in Public Contract Code section 22034	Public Works Director
Over \$200,000	A formal bidding process is required per the procedure set forth in Public Contract Code section 22037	Board of Supervisors

As detailed in the above chart, for public works purchases less than \$60,000, no specific process is required. However, the Public Works Department must always endeavor to obtain the best value for the County. Price shopping is always encouraged.

For purchases between \$60,000 and \$200,000, the Public Works Department must comply with the procedures set forth in Inyo County Code section 6.14.070. This section contains the informal bidding rules required by CUPCCAA. Specifically, these rules require that the Public Works Department do the following:

⁴ Public Contract Code § 22032.

1. Maintain a list of qualified contractors for various categories of work. Qualifications for admission to this list is determined by the California Uniform Public Construction Cost Accounting Commission.
2. Prepare a notice inviting informal bids that describes the project in general terms and how to obtain more detailed information about the project.
3. Inform all contractors who have been placed on the list of qualified contractors of all informal bids for which they are qualified at least 14 days before the bid is due. The notification to contractors must occur via whatever method the contractor chose when they signed up for the qualified contractors list.
4. Provide a notice inviting informal bids to all construction trade journals specified in Public Contract Code section 22036.

If all bids received under the informal bidding process are over \$200,000, the Board of Supervisors may still award a contract, but only if that contract is for less than \$212,500.⁵ If a contract cannot be negotiated for less than \$212,500, then the Public Works Department must re-bid the project via the formal bidding process.

For formal bids, the Public Works Department must do the following:⁶

1. Present plans, specifications, and working details to the Board of Supervisors for approval and adoption⁷
2. Prepare a notice inviting formal bids that states the time and place for the receiving and opening of sealed bids and distinctly describe the project.
3. Publish the notice at least 15 calendar days before the date of opening the bids in a local newspaper and send the notice electronically to all construction trade journals specified in Public Contract Code Section 22036.

After receiving bids, the Public Works Department may take one of the following actions:⁸

1. Award the contract to the lowest responsible bidder
2. Reject all bids received and, after reevaluation of the costs of the project, decide that the work can be performed more economically by County employees. When taking this route, the Public Works Department must schedule a noticed public hearing before the Board of Supervisors, obtain 4/5 Board approval of the decision to reject all bids, and send notice of the hearing at least 2 days prior to the apparent low bidder.

If no bids are received, the Public Works Department may proceed as if the contract is below \$60,000, regardless of the actual dollar amount.

⁵ Public Contract Code § 22034(d).

⁶ Public Contract Code § 22037.

⁷ Public Contract Code § 22039

⁸ Public Contract Code § 22038.

VI. Procurements Related to Road and Bridge Projects (Inyo County Code Chapter 6.16)

Procurements related to road projects are governed by Inyo County Code Chapter 6.16, Public Contract Code section 20390, *et seq.* (roads), and Public Contract Code section 20400, *et seq.* (bridges).

A. Road Projects (Inyo County Code § 6.16.030)

Amount	Required Action	Approval Authority
Less than \$25,000	Board must find that the estimate is less than \$25,000; Road Commissioner may then contract for the work to be performed with no bidding	Board; then Road Commissioner
Between \$25,001 and \$50,000	Sealed, formal bids required	Road Commissioner
Over \$50,000	Sealed, formal bids required	Board of Supervisors

Procurements related to road projects have somewhat odd requirements in the sense that only the cheapest and the most expensive purchases require Board involvement. For procurements less than \$25,000, the Road Commissioner is empowered to contract for labor and materials with no competitive bidding process.⁹ However, the Road Commissioner may only do so after bringing an estimate to the Board of Supervisors and obtaining Board approval of the accuracy of the estimate. There is no statutory authority permitting the Board to delegate its power regarding estimate approval; therefore, road project procurements of \$25,000 or less will always require input from the Board.

For procurements between \$25,000 and \$50,000, the Board is empowered by Public Contract Code section 20394.5 to delegate the entire process to the Road Commissioner, and has done so via Inyo County Code section 6.16.040. The Road Commissioner must obtain sealed formal bids for any projects that fall in this dollar range. After opening these bids and choosing a winning bidder, the Road Commissioner is empowered to enter into a contract with the winning bidder without obtaining Board approval.

Finally, for procurements over \$50,000, the process is the same as procurements between \$25,000 and \$50,000, except that the Road Commissioner must bring the contract to the Board for approval.

There are some additional requirements to keep in mind for all road project procurements:

⁹ Public Contract Code § 20394.

- For all road projects over \$20,000, Public Contract Code section 20391 requires the preparation of surveys, profiles, cross-sections, plans, and specifications of the proposed work.
- For any road project that requires formal bidding, notice of the call for bids must be published at least 10 times in a daily newspaper or 2 times in a weekly newspaper.¹⁰
- The Road Commissioner has the following change order authority:¹¹
 - For contracts of \$50,000 or less – up to \$5,000
 - For contracts between \$50,000 and \$250,000 – up to 10% of the original contract price
 - For contracts over \$250,000 – up to \$25,000, plus 5% of the amount of the original contract cost in excess of \$250,000
 - No matter the price of the contract, no change order shall exceed \$210,000

B. Bridge Projects (Inyo County Code § 6.16.080)

Amount	Required Action	Approval Authority
Less than \$2,000	No formal bidding process or contract required	Road Commissioner
Between \$2,000 and \$10,000	No formal bidding process, but the goods or service to be purchased must be set forth in a contract	Road Commissioner
Over \$10,000	Sealed, formal bids required	Board of Supervisors

Bidding thresholds for bridge projects are much lower than road projects. For bridge procurements less than \$2,000, no bidding—or even a contract—is required.¹² For bridge procurements between \$2,000 and \$10,000, no bidding is required, but the purchase must be memorialized in a contract that can be executed by the Road Commissioner.¹³ For bridge procurements over \$10,000, a sealed, formal bidding process is required, with the Board approving the contract that comes out of that process. Formal bids for bridge procurements must be noticed 10 times in a daily newspaper or 2 times in a weekly newspaper.¹⁴

¹⁰ Public Contract Code § 20392.

¹¹ Public Contract Code § 20395.

¹² Public Contract Code § 20403.

¹³ Public Contract Code § 20402.

¹⁴ Public Contract Code § 20404.

VII. Emergency Purchasing (Inyo County Code Chapter 6.22)

Any employee making a purchase during an emergency event must first consider 1) which entity, if any, has declared a state of emergency and 2) where the funds to make the purchase come from. The procedures and rules described in this manual relate to a County-declared state of emergency where County money is being spent to respond to the emergency. However, larger emergencies that go beyond Inyo County's borders often include state or federal-level emergency proclamations and state or federal-level funding to respond to the emergency. Often, these non-County funds have their own procurement rules. Describing all of these procurement rules is beyond the scope of this Policy, so any employee making a purchase during a state of emergency should pay careful attention to the source of the money that they are spending.

A. Emergency Purchases of Services and Goods (Inyo County Code § 6.22.010)

Whenever the Board of Supervisors has proclaimed a local emergency pursuant to Government Code section 8630, more lenient purchasing procedures apply for personal property and services.¹⁵ Procedures are more lenient in an emergency because emergencies often necessitate that unpredictable and potentially expensive purchases be made quickly to protect public health, safety, and welfare. This situation makes it impossible to comply with procedures such as RFP/RFQs or taking purchases to the Board of Supervisors for approval.

As set forth in section 6.22.010 of the County Code, when the Board has declared a state of emergency pursuant to Government Code section 8630, all limits on the Purchasing Agent's delegated authority are removed. In other words, the Purchasing Agent may make any purchases necessary to respond to the state of emergency without seeking the approval of the Board of Supervisors and without any competitive process. However, the Purchasing Agent must endeavor—to the maximum extent possible and in recognition of the uniqueness of each emergency—to collect informal bids from at least three sources before making any purchase pursuant to this section.

The Purchasing Agent is also authorized to further delegate purchasing authority to the Incident Commander if Inyo County stands up an Emergency Operations Center to handle the emergency.

B. Emergency Purchases for Public Works Projects (Inyo County Code § 6.22.020)

There are no monetary limits on the power of the Public Works Director to spend money to perform emergency repairs to any structure that constitutes a public work, nor is it necessary for there to be a declared state of emergency per Government Code section 8630. Additionally, the Public Works Director is not required to collect any bids. However, per Public Contract Code section 20134(a) and as set forth in section 6.22.020 of the County Code, there are specific procedures that the Public Works Director must follow before performing emergency work.

These procedures are set out in Public Contract Code section 22050, and it is strongly advised that any employee performing an emergency repair on a public work both read section 22050 and consult with County Counsel. Generally, section 22050 requires that the Board of

¹⁵ Gov't Code § 25502.7.

Supervisors find, by 4/5 majority, that damage to a structure has created an emergency situation that necessitates such immediate action that bidding would be impossible. There is a continuing obligation for the Board of Supervisors to renew its finding of an emergency situation every two weeks, and there are specific limits on how much a contractor may add to its materials costs to cover overhead and administration when performing emergency work.

If the Public Works Director determines that the repair must be made so quickly that the matter cannot be brought before the Board of Supervisors for an emergency finding, the Public Works Director may authorize such repairs to be performed. The Public Works Director must then, at the next regularly scheduled Board of Supervisors meeting, bring the matter before the Board and seek authorization to continue the work.

C. Emergency Purchases for Road Projects (Inyo County Code § 6.22.030)

The Road Commissioner may authorize the immediate expenditure of up to \$25,000 to repair a road in the case of a landslide, flood, storm damage, or other emergency situation or to prepare for an imminent emergency (such as forecasted heavy rain that is likely to cause landslides on a county road).¹⁶ Emergency expenditures over \$25,000 require Board of Supervisor approval. In both situations—i.e. both over and under \$25,000—there is no requirement to seek bids.

D. Emergency Purchases for Bridge Projects (Inyo County Code § 6.22.040)

Emergency repairs to a bridge cannot be made without Board of Supervisor authorization. In other words, there is no ability in California law to delegate decision-making authority regarding emergency bridge repairs to the Public Works Director, like there is for repairs to structures or roads. That said, if a situation arises where an emergency necessitates the immediate expenditure of funds on a bridge, the Road Commissioner is encouraged to consult with County Counsel, as there may be alternative avenues to legally spend funds to repair a bridge without the delay required by seeking Board approval.

However, unlike structural emergencies, authorization to perform emergency work on a bridge requires only a 3/5 simple majority.¹⁷ Once the Board of Supervisors has made the emergency finding, the Road Commissioner or Public Works Director is free to immediately contract to repair the bridge without soliciting any bids.

¹⁶ Public Contract Code § 20395(c).

¹⁷ Public Contract Code § 20407.

VIII. Dispute Resolution Procedures (Inyo County Code Chapter 6.30)

When a bidder is not selected as a winning bidder following an informal or formal quote or bid process, that unsuccessful bidder sometimes attempts to challenge the County's decision to award the bid to someone else on the grounds that the bidding process was unfair or out of compliance with state law. To address these situations, the County has created a mandatory dispute resolution process that any aggrieved bidder must use.

This process is set out in Chapter 6.30 of the Inyo County Code. It applies to all types of procurements—be it a public works project, a purchase of office supplies, or graphic design services. If a department receives notice of a protest, they should contact County Counsel immediately for further guidance.

Protests must be submitted within 10 days of the notification of award to bidders. Thus, if you have not received any protests 10 days after you notified all bidders of the winning bidder, you can be fairly certain that your procurement will not be challenged on the basis of any alleged irregularities in the bidding process.

IX. Sale and Transfer of Surplus County Personal Property (Inyo County Code Chapter 6.28)

When County property is no longer needed for County operations, the County will dispose of it either via an auction or by donation. Generally, unneeded County property may be donated only to a nonprofit entity or another government entity. If the property is going to be transferred to a for-profit entity or an individual, it must be sold at a public auction. The major issue to pay attention to when disposing of unneeded County property is the required notice period. The type of transfer (*i.e.* donation or auction) and the intended recipient of the property can alter the required notice period.

Any department that is transferring a fixed asset to surplus must notify the Auditor. Additionally, if a department has declared an item surplus, that item must be secured and stored at a County facility until it is sold, donated, or disposed of.

A. Sale of Surplus Property

The most common procedure to sell surplus property is a public auction. Per the Government Code¹⁸ and the Inyo County Code, the following procedures apply to a public auction.

First, the department head must inform the Purchasing Agent that the department has surplus property to dispose of. While there is no rule forbidding a department from holding its own auction, it often saves time and labor for multiple departments to consolidate their surplus items into one auction. Thus, the Purchasing Agent will monitor the level of surplus goods and arrange a multi-department auction when appropriate.

Second, if the estimated value of any of the property to be auctioned exceeds \$10,000, the Purchasing Agent must seek Board approval to dispose of it. If none of the Property to be auctioned is worth more than \$10,000, you may skip this step.

Third, after the Purchasing Agent has arranged the logistics of the auction (which generally occur online via a third-party platform), notice of the auction must be given for five days prior to the start either by publication in a local newspaper or by posting notice in three public places in the County.

Exceptions to this process include:

The County is permitted to dispose of property worth less than \$500 without a public auction if the Board of Supervisors *unanimously* votes that the property is worth less than \$500.¹⁹ This rule also applies to products from a County farm. Following the sale, the Purchasing Agent must report back to the Board the results of the sale.

The County is permitted to sell personal property to any road improvement, lighting, irrigation, waterworks, flood control, or other special district within the County whose affairs and funds are

¹⁸ Gov't Code § 25363.

¹⁹ Gov't Code 25363.

under the supervision and control of the Board or for which the Board is ex officio the governing body without any auction.²⁰

The County is permitted to donate or sell property to a community redevelopment agency, housing authority, community development commission, surplus property authority, federal agency, city, school district, County Board of Education, special district, joint powers agency, or any other public agency within the County without an auction. However, a 4/5 vote of the Board of Supervisors is required and notice of the intended sale or donation must be posted at least one week before the matter is brought to the Board.²¹

B. Donation of Surplus Property

The Board of Supervisors may vote to donate any County property to the following organizations on any terms that it deems appropriate:²²

- (1) A 501(c)(3) organization that is organized for the care, teaching, or training of children or developmentally disabled children.
- (2) A 501(c)(3) organization that is organized for the care, teaching, or training of Native Americans.
- (3) A school district or community college district.
- (4) A county children and families commission established pursuant to the California Children and Families Act of 1998.
- (5) A 501(c)(3) organization that is organized to provide health or human services.²³

Additionally, the Board may authorize the donation of surplus computer equipment to any individual who is receiving any of the following public benefits: CalFresh, CalWORKs, County Relief, General Relief, General Assistance, or Medi-Cal. The transfer of this equipment must be managed by the public assistance division of Health and Human Services. HHS must develop a list of eligible people who have requested computer equipment and develop a fair and impartial procedure to disburse the equipment. Recipients of the equipment must sign an agreement stating that they agree not to resell it.

Finally, it is possible to donate property to other community-focused organizations that are not on the list above. However, this is a more complicated process that tends to be unique to each situation. Thus, for any such donations, departments should consult with County Counsel.

²⁰ Gov't Code § 25366.

²¹ Gov't Code § 25365.

²² Gov't Code § 25373.

²³ This list represents the most common organizations that the County will donate surplus goods to. However, this is not an exclusive list. Departments are encouraged to contact County Counsel to determine if there is a method to donate to community-focused or governmental organizations not on this list.