

### **TITLE 3 REVENUE AND FINANCE**

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## **CHAPTER 3.04 BUDGETING AND PURCHASING PROCEDURES**

### Sections:

- 3.04.010 BUDGETING POLICY—ESTABLISHING THE PLAN
- 3.04.020 BUDGET TRANSFER AND PURCHASING AUTHORIZATION POLICY—  
CHANGING AND IMPLEMENTING THE PLAN
- 3.04.030 REPORTING POLICY—MONITORING THE PLAN
- 3.04.040 FINANCIAL ADVISORY BOARD ROLE
- 3.04.050 ORGANIZATIONAL STRUCTURE

### **3.04.010 BUDGETING POLICY—ESTABLISHING THE PLAN**

This section outlines in calendar form the annual budget cycle for creating a formal multiyear plan for Pitkin County.

<b>Responsibility</b>	<b>Date</b>	<b>Task</b>
Staff and BOCC	Ongoing	1. Assess existing conditions and needs for major programs.
BOCC and FAB	April	2. Review prior year final financial position report.
BOCC and FAB	May	3. Identify major budgetary issues facing the county such as: <ul style="list-style-type: none"> <li>a. financial condition;</li> <li>b. economic trends;</li> <li>c. unfunded projects;</li> <li>d. changing community needs or conditions;</li> <li>e. intergovernmental relationships;</li> <li>f. natural disasters.</li> </ul>
BOCC	May	4. Adopt policies addressing these issues and directing staff in the preparation of their plans and budgets: <ul style="list-style-type: none"> <li>a. budget policies;</li> <li>b. economic assumptions;</li> <li>c. program goals and objectives;</li> <li>d. priorities.</li> </ul>
Staff	June	5. Update program goals, objectives, and performance indicators.
		6. Analyze alternative service levels and implementation methods and select the best alternatives.
		7. Prepare multiyear implementation plan and budget requests for the coming year including the following: <ul style="list-style-type: none"> <li>a. program goals, objectives, and performance indicators;</li> <li>b. operating budgets for all departments including cost centers;</li> <li>c. alternative levels of operation;</li> <li>d. ten (10) year capital replacement schedule;</li> </ul>

<b>Responsibility</b>	<b>Date</b>	<b>Task</b>
		<ul style="list-style-type: none"> <li>e. capital improvement and developmental projects for five years;</li> <li>f. general revenue assumptions and projections for five years;</li> <li>g. capital debt service for five years.</li> </ul>
Staff	July 1	8. Submit budget requests and plan to budget director.
County manager Section heads Budget director	July	9. Review budget requests and plan.
Budget director	August	10. Update the multiyear plan for: <ul style="list-style-type: none"> <li>a. prior year actual results from subsection 2;</li> <li>b. budget requests and plans from subsections 7 through 9;</li> <li>c. economic assumptions from subsection 4;</li> <li>d. budget policies from subsection 4;</li> <li>e. unfunded projects.</li> </ul>
Manager and budget director	September	11. Present the coming-year budget as part of the multiyear plan (CRS 29-1-107).
BOCC FAB as advisory	September	12. Review the multiyear plan and change goals, objectives, assumptions, policies, or priorities as necessary to balance all years of the plan.
Budget director	September	13. Revise the multiyear plan for changes arising from BOCC-FAB review.
Budget director and FAB	October	14. Issue a user-friendly budget summary document to the public.
Budget director	Late October	15. Public notice that the coming-year budget is available for inspection in detail by the public and that any comments may be submitted to the BOCC regarding its content. (CRS 29-1-108).

<b>Responsibility</b>	<b>Date</b>	<b>Task</b>
BOCC	4th Monday in October	16. Budget public hearing and first reading of resolutions to adopt and appropriate the coming-year budget (by fund).
BOCC	2nd Monday in November	17. Second reading of the resolutions to adopt and appropriate the coming year budget (CRS 29-1-110).
BOCC	2nd Monday in November	18. Resolution to set the mill levy for county funds and districts.
BOCC	November 15	19. Certification of all mill levies (CRS 39-1-111).
Budget staff	November December	20. Finalize the multiyear plan and present it for public distribution.
Budget staff	December	21. Enter the coming-year budget into finance department records and issue approved budgets to all county departments.

The annual process begins again in April with the review of prior year financial position.  
*(Res. 87-21 (part))*

**3.04.020 BUDGET TRANSFER AND PURCHASING AUTHORIZATION POLICY—CHANGING AND IMPLEMENTING THE PLAN**

The following table summarizes the level of authorization required for changes to the annual budget and purchases there under:

<b>Authorization Level</b>	<b>New Project Budget</b>	<b>Budget Changes and Contract Change Orders to Approved Projects</b>	<b>Contracts and Purchase Orders</b>
Department heads	-	≤ \$10,000 offset within dept./program	≤ \$10,000
Section heads	-	≤ \$25,000 and 10% offset within section	\$10,000 to 25,000
County manager	≤ \$10,000 + zero cost; advise BOCC	≤ \$25,000 and 10% offset between sections	-
	> \$10,000	> \$25,000 and 10%	> \$25,000 chair

Board of county  
commissioners

or not offset

approval; advise  
BOCC

**Notes:**

- A. General:
  - 1. Successive signatures are required for approval at each level for all categories of this table.
  - 2. Offsetting budget changes and new project budgets may not involve more than one fund except for the general fund and those funds subsidized by the general fund (e.g., road and bridge fund and housing authority fund).
  - 3. BOCC budget approval, when required, will be via a formal supplemental appropriation resolution.
  - 4. Any changes in total fund revenues, expenditures, or other sources and uses authorized at a level below the BOCC will be summarized and approved by the BOCC at year-end to comply with state law.
- B. New project budget:
  - 1. "Zero cost" means the new project's cost can be offset by additional revenue or a reduction in another project's cost.
- C. Budget changes and contract change orders:
  - 1. "\$25,000 + 10%" means each change must be at least twenty-five thousand dollars (\$25,000.00) and it must also be at least ten (10) percent of the original budget.
  - 2. If any series of change orders increase a contract amount from less than twenty-five thousand dollars (\$25,000.00) to greater than twenty-five thousand dollars (\$25,000.00), that contract must be authorized by the BOCC.
  - 3. BOCC approval will also be required for any budget changes that alter future year budgets by more than twenty-five thousand dollars (\$25,000.00).
  - 4. Budget changes may be increases or decreases.
- D. Contracts and purchase orders:
  - 1. All purchase orders and contracts issued by Pitkin County must be consistent with the annual budget. The finance department will review purchase orders in excess of ten thousand dollars (\$10,000.00), for adequate budget.
  - 2. If a departmental purchase order for ten thousand dollars (\$10,000.00) or less increases to more than ten thousand dollars (\$10,000.00), section head approval is required and budget will be verified. *(Res. 87-21 (part))*

**3.04.030 REPORTING POLICY—MONITORING THE PLAN**

- A. By March 1st of each year the BOCC shall review a report prepared by the finance director of sole source and emergency purchases of the prior year as required by the Pitkin County Procurement Code set out in the Appendix at the end of this code.
- B. By July 1st of each year the BOCC shall review the comprehensive annual financial report in a public meeting.



- C. Each month the BOCC, county manager, section heads, and department heads will be provided with financial reports of the prior month and year-to-date activity as contrasted to budget, in sufficient detail to be useful to them.
- D. Each month the BOCC will be advised in writing of the status of major revenue sources and any other items of major significance.
- E. By the end of January, April, July and October the BOCC shall review financial reports of the prior quarter's activity of the county, including but not limited to the following:
  - 1. The exception report of project revenue and expenditure variances from budgeted amounts in excess of ten thousand dollars (\$10,000.00) for the prior quarter and twenty-five thousand dollars (\$25,000.00) for the year-to-date (or other limits at the BOCC's discretion). These exception reports will be used to draft a supplemental appropriation in the following month to resolve the problems that appear on the report;
  - 2. A report of estimated year end fund balances, showing both specific restrictions and available amounts from the last supplemental appropriation;
  - 3. A quarterly report of assets and liabilities, as required by the BOCC, compared to prior periods. Only the quarterly investment report is being used currently, while the airport receivable report has been integrated into the quarterly exception report. *(Res. 87-21 (part))*

**3.04.040 FINANCIAL ADVISORY BOARD ROLE.**

- A. The county financial advisory board, the "FAB," shall review the multiyear plan and the annual county budget with their supporting documents during the annual budget preparation period and make such advisory comments as their analysis warrants.
- B. The FAB shall review all budget changes that are submitted to the BOCC for approval.
- C. The FAB shall review the quarterly reports presented to the BOCC. A quarterly joint meeting of the FAB and BOCC will be held for constructive comment and discussion of significant issues arising during the quarter.
- D. The FAB shall have access to such existing monthly reports as desired in order to improve the financial reporting of the county.

- E. The FAB shall review the sole source and emergency purchases of the prior year and make such constructive comments as are warranted.
- F. The FAB shall review the comprehensive annual financial report and make such constructive comments as are warranted. *(Res. 87-21 (part))*

**3.04.050 ORGANIZATIONAL STRUCTURE**

- A. As used within this chapter, the terms “section head,” “section budget” and “department head” shall refer to the current organizational structure as may be revised from time to time by the BOCC and included in the policy manual.
- B. Sections shall be the significant spending agencies referenced in the budget, for the purpose of specifically complying with the Local Government Budget Law, CRS 29-1-106 and 29-1-111.5. *(Res. 87-21 (part))*

3.05.010: EFFECTIVE DATE AND REPEAL OF PRIOR CODES

This Code is effective as of February 10, 2021 and repeals all prior County codes pertaining to the same subject matter. *(Adopted Ordinance 009-2021)*

3.05.020: GENERAL PROVISIONS

3.05.021: PURPOSES, RULES OF CONSTRUCTION

- (1) Interpretation. This Code shall be construed and applied to promote its’ underlying purposes and policies.
- (2) Purpose. It is the policy of the Board of County Commissioners (“BOCC”) that the purchase of goods and services for Pitkin County (“County”) be conducted in a fashion that will provide for increased public confidence in public procurement; ensure the fair and equitable treatment of all persons who deal with the procurement system of the County; maximize the purchasing value of public funds of the County; foster competition; promote and encourage ethical management; promote efficiency; and provide safeguards for the maintenance of a procurement system of quality and integrity. When revenue sources are to be procured, it is the policy of the County to maximize revenue whenever possible, while maintaining quality and efficiency of service and products and preserving County assets.

- (3) Good Faith. All parties involved in the solicitation, negotiation, performance and administration of County procurement actions shall act in good faith.

3.05.022: APPLICATION OF THIS CODE

- (1) General Application. This Code applies only to Contracts solicited or entered into after the effective date of this Code.
- (2) Application to County Procurement. Unless specifically exempted, this Code shall apply to each expenditure of public funds irrespective of their source, including Federal assistance monies, by this County. In addition, this Code shall also apply to rights to use Property for commercial or private purposes for one year or more. Nothing in this Code, or in regulations promulgated hereunder, shall prevent any Governmental Body from complying with the terms and conditions of any Grant, gift, bequest, or cooperative agreement.
- (3) Exemptions to County Procurement. The following are exempt from the requirements of this Code:
  - a. licenses, permits, easements, or other rights to use County real property for less than one year for commercial or private purposes;
  - b. leases for County affordable housing;
  - c. the sale, purchase, or lease of real property;
  - d. the hiring of a broker or other consultant to assist in the sale or purchase of real property;
  - e. the acquisition of professional services of legal counsel and expert witnesses;
  - f. the investment of County funds;
  - g. Public Utilities, including: water, electricity, natural gas, and telephone/internet connections;
  - h. works of art for display, purchase or performance;
  - i. dues and memberships;
  - j. sole source procurements, as described in Section 3-104;
  - k. small purchases, as described in Section 3-103;
  - l. emergency procurements, as described in Section 3-105;
  - m. outside agency bids, as described in Section 3-106; and

n. Grants or Contracts (including but not limited to Intergovernmental Agreements) between the County and other governments, or the agencies or departments of other governments.

- (4) Compliance with Federal or State Requirements When a Procurement involves the expenditure of Federal or State assistance or contract funds, the Procurement Officer shall comply with applicable Federal or State law or Grant conditions. In the event of conflict between Federal or State Procurement Requirements and the Pitkin County Procurement Code and Policy, contracts and agreements which are subject to Federal or State Requirements shall follow the more restrictive parts of the regulations.

### 3.05.030: DEFINITIONS

The words defined in this Section shall have the meanings set forth below whenever they appear in this Code:

- (1) Construction The process of building, altering, repairing, improving, or demolishing any fixed public asset, including without limitation any public structure or building, roads, sidewalks, parks, lighting, and landscaping. It does not include the routine operations or routine maintenance of existing structures, buildings, real property or other fixed assets.
- (2) Contract All types of agreements, regardless of what they may be called, for Procurement.
- (3) Contractor Any Person having a Contract with a Governmental Body.
- (4) Designee An authorized representative of a Person holding a superior position.
- (5) Goods Physical property or materials including, without limitation, supplies, equipment, parts, printing and other tangible end products.
- (6) Governmental Body The Board of County Commissioners of Pitkin County.
- (7) Grant The furnishing or receipt by the County of assistance, whether financial or otherwise, to or from any Person to support a program authorized by law. It does not include an award whose primary purpose is to procure an end product, whether in the form of Goods, Services, or Construction; a Contract resulting from such an award is not a Grant but a Contract.
- (8) Person Any entity, business, union, committee, club, or other organization, or individual, or group of individuals.
- (9) Procurement Buying, purchasing, renting, leasing, or otherwise acquiring or disposing of any Property, Goods, Services, or Construction. It also includes

all functions that pertain to the obtaining or disposing of any Property, Goods, Services or Construction, including a description of requirements, selection and solicitation of sources, preparation and award of Contract, and all phases of Contract administration.

- (10) Procurement Officer Any individual authorized to negotiate and to procure on the County's behalf
- (11) Property All County property, including but not limited to, equipment, materials, documents, water rights, insurance, supplies, and leases of one year or more of real property, but not including any category of County property listed as an exemption in Section 1-102(3).
- (12) Proposer Any Person submitting a proposal to the County in response to a County issued solicitation
- (13) Request for Proposals All documents utilized for soliciting proposals from prospective Contractors.
- (14) Request for Qualifications All documents utilized for soliciting qualifications from prospective Contractors.
- (15) Responsible Proposer A Person who has the capability to fully perform the solicited Contract requirements.
- (16) Selection Committee A group of not less than three individuals designated to review proposals and recommend a selection from the participants.
- (17) Services The furnishing of labor, time, or effort by a Contractor, not involving the delivery of a specific end product or for which the end product component is minimal in relation to the services component.
- (18) Surplus County Property Property that is scheduled for replacement, has outlived its useful life, or is otherwise no longer needed in or for County operations.

#### 3.05.040: GENERAL STANDARDS OF ETHICAL CONDUCT

Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of a County Employee's duties is a breach of public trust. Any effort to influence any public employee to breach the standards of ethical conduct is also a breach of ethical standards. In addition to the provisions of this section, the Employees and Officials of the County, as well as non-County individuals and companies who deal with the County through the procurement process, shall comply with the provisions of Article XXIX of the Constitution of the State of Colorado, Ethics in Government.

### 3.05.050: PUBLIC ACCESS TO PROCUREMENT INFORMATION

Procurement information shall be a public record to the extent provided by law and shall be available to the public as provided by law. Confidential data, if identified as such by the Proposer, will be held confidential upon request, if the request is made as part of the Proposal and if the County Attorney determines that the data meets the requirements for confidentiality under the Colorado Public Records Act.

### 3.05.060: PROCUREMENT ORGANIZATION: AUTHORITY AND DUTIES

(1) Regulatory Authority. Except as otherwise provided in this Code, the County Manager, or his/her Designee, shall have the authority and responsibility to promulgate regulations, consistent with this Code, governing Procurement and the management and control of any and all Goods, Services, and Construction procured by the County. The County Manager, or his/her Designee, shall consider and decide matters of Procurement policy within the provisions of this Code. The County Manager, or his/her Designee, shall have the power to audit and monitor the implementation of Procurement regulations and the requirements of this Code. Policy determinations, current internal operating procedures, and interpretations by the County Manager, or his/her Designee, shall be maintained by the County Manager's Office in a Procurement Code File. The County Manager also has responsibilities in emergency procurements, as set forth in Article 3, and in appeals, as set forth in Article 4.

(2) Signature Authority. The Board of County Commissioners of Pitkin County, Colorado delegates signature authority on its contracts to the County Manager and his/her Designees, provided that the County Manager must sign all contracts in the amount of \$50,000.00 or more. For contracts in amounts less than \$50,000.00, contracts may be signed by persons so designated and authorized through internal operating policies. This delegation of authority does not apply to Intergovernmental Agreements or to those contracts or grants that require Board of County Commissioner signature(s) through regulations of the other contracting party.

### 3.05.061: COUNTY PROCUREMENT OFFICERS

Many purchasing functions are decentralized in Pitkin County, with employees in the various departments responsible as Procurement Officers for procurement decisions. The formulation of the Procurement Department provides a centralized, advisory and administrative resource for all procurement

### 3.05.070: THE PUBLIC PROCUREMENT PROCESS

(1) General Rules

- a. Dollar Amount – Contract thresholds cannot be divided in an attempt to avoid being classified as a different form of purchase.<sup>1</sup>
- b. Thresholds – Contract requirements and procurement methods for varying dollar thresholds. At any time, the Procurement Department may require additional signatures or processes to be included.
  - i. \$24,999.99 and under
    - 1) Procurement Method – No Procurement method is required
    - 2) Contract Requirements – A contract is recommended, but not required
  - ii. \$25,000.00 to \$49,999.99
    - 1) Procurement Method – Informal Procurement, or exception documentation, is required
    - 2) Contract Requirements – A contract is required. An invoice can be utilized to replace a template contract when purchasing Goods/Equipment/Supplies.
  - iii. \$50,000 and above
    - 1) Procurement Method – Formal Procurement, or exception documentation, is required
    - 2) Contract Requirements – A Contract is required
- c. Invoices – Any invoice submitted to the County for which a contract has been written is required to go through the Accounts Payable process. The invoice is not to be paid by Purchasing Card without prior written approval.
- d. Template Contracts, Forms and Documents
  - i. Template Contracts – All County purchases requiring a Contract shall utilize the standard contract forms written or approved by the County Attorney’s Office. Revisions or additions to these approved forms, including the incorporation of competing forms or terms requested by a potential vendor, shall be submitted to Procurement for review and

- handling in accordance with the directives of the Attorney's Office.
- ii. Procurement Documentation – All Contracts requiring a Procurement Method shall have the Procurement Method Documentation approved prior to contracting, and Documentation shall be included with the Contract. All Contracts shall also include a Cover Page, as approved by Procurement.
  - iii. Additional Documents – Any additional documentation, exhibits, or attachments shall be included in the Contract filing.
  - iv. Budget Line Item Number – All Contract Types shall be assigned a budget line item number with the revenue or disbursement that shall be associated with approved and sufficient budget.
- e. Required Contract Terms – The Attorney's Office shall determine all required contract terms and conditions in accordance with the applicable law and in the best interest of the County. In addition, the Attorney's Office shall define the authority granted to the Procurement Department to alter or waive specific contract terms. Should any Contract documents require additional review by the Attorney's Office, all documentation shall be included at the time of the review. If there are any documents to be included in the final Contract and they are not included in the initial Attorney's Office review, additional time may be required for further review and approvals.
  - f. Contract Performance and Payment Bonds – All performance and payment bonds shall be delivered to the Clerk to the Board for recording and retention.
  - g. Insurance Certificates – All certificates of insurance, as required by contract, shall be delivered to the Procurement Department. The Procurement Department shall create a central repository for all certificates of insurance for all County employees to access.
  - h. Signature Requirements – All contracts or agreements entered upon on the behalf of the county, at minimum, shall be signed by a vendor representative and a County Representative. In the event that the identified County Representative does not have



signing authority for the budget line item number(s) utilized, the department head for the associated budget line item number shall sign.

- i. Contract Recording – All parties to the contract or agreement shall receive a copy of the fully executed agreement along with all additional documents. The County shall utilize Centralized Documentation and Contract Management. The Procurement Department is responsible for maintaining a complete contract file and all required documentation on all contracts. The County Representative is responsible for ensuring all documentation is in order for the Procurement Department’s review and recording.

Procurement Documentation Recording – The Procurement Department shall follow the timelines set forth in the County Records Retention schedule, along with all procedures set forth therein.

### 3.05.080: METHODS OF SOURCE SELECTION

Unless otherwise authorized by law or exempt from this Code, all County Contracts shall be awarded by one of the methods in this Section.

(1) Informal Procurement – An Informal Procurement shall consist of the following:

- a. Outreach – A County Representative shall reach out to no less than three (3) qualified vendors to submit a proposal for the scope of work, as determined by the County Representative.
- b. Accepted Proposals – The County Representative shall make a reasonable effort to receive proposals in writing. In the event that this is not possible, or would require an unreasonable amount of effort on the part of the Vendor or the County, a verbal proposal shall be deemed acceptable. Notwithstanding, the proposal from the Selected Vendor shall be in writing.
  - i. No Response and Location Limitations – In the event that a Vendor does not respond to the request within a reasonable timeframe or the Vendor states that they cannot perform the work in the area, the County Representative shall count either situation as one of the three required proposals. Notwithstanding the above, the County Representative may only accept one

- (1) non-response or location limitation response to qualify for the number of required proposals.
- c. Documentation – An Informal Procurement shall be documented utilizing an Informal Procurement Memo, as approved by the Procurement Department.
  - i. Information Required – The Informal Procurement Memo shall include, but is not limited to:
    - 1) The Name, Title and Signature of the County Representative who performed the outreach required by the Informal Procurement;
    - 2) Description of Project
    - 3) Budgeted Amount, along with the Budget Line Item Number(s) associated with the Project
    - 4) Names of Vendors contacted, each proposal amount, timeline from each vendor and other relevant information
    - 5) Indication of the Selected Vendor and the rationale for the selection

(2) Formal Procurement

- a. A Formal Procurement may take the form of a Request for Bid (“RFB”), Request for Information (“RFI”), Request for Qualifications (“RFQ”), or Request for Proposal (“RFP”). Other forms of Formal Procurement are allowed upon written approval from the Procurement Department. All forms allow the County to contract after a successful bid. The County may choose to submit a secondary procurement based upon the results of the primary procurement.
  - i. General Requirements
    - 1) Invitation to bid – An invitation to bid shall be issued and include specifications and contract terms applicable to the project. All information shall be consolidated into one Bid Packet and issued to the potential bidders. The invitation shall also include, all other general requirements included herein.
    - 2) Specifications – The specifications shall be clear and concise so as to not obfuscate any potential bidder.

Specifications shall include any requirements on the part of the County and any items to which the County would show preference. If specific items, with manufacturer information are included, alternative or equal products shall be allowed to be presented.

- 3) Selection Committee – Shall be identified at the time of the bid being issued. Identification shall include, at minimum, the full name of all individuals along with their department. Individuals can be identified as a part of the scoring team or non-scoring team, both teams having access to the same files and documentation from the bidders.
- 4) Selection Criteria – A list of selection criteria shall be identified in the Bid Packet. This selection criteria is to be relative to the project and weighted appropriately. Selection Criteria may be based upon percentage or points. Selection Criteria may be limited to a short-listed group of bidders, but the Criteria shall none the less be identified within the Bid Packet.
- 5) Selection Requirements – All required documentation that the proposer is required to submit shall be easily identified within the Bid Packet.
- 6) Outside Assistance – Any time that the County utilizes an outside agency or vendor for the purposes of the Bid, the outside agency or vendor shall be identified either as a part of the Selection Committee or their logo shall be prominently displayed on the documents issued to bidders.
- 7) Security Requirements –

- i. Bid bonds (five percent) are required for any construction proposal greater than \$50,000<sup>2</sup>
  - ii. 100 percent performance and payment bonds may be required on any county project of \$50,000 or more or as the Purchasing Department and/or Department Director deems advisable to protect the County's interests.
- 8) Bid Opening – The opening of sealed bids shall be a public procedure. Bids shall be opened by the Procurement Department, or County Representative if a representative from the Procurement Department is unavailable, at a time and place identified in the Bid Packet. The amount of each bid and such relevant information as the Purchasing Department deems appropriate, together with the name of each bidder, shall be recorded. Bids must be received prior to the specified time as established in the Bid Packet. Bids received after the specified deadline will not be accepted.
- 9) Award/Selected Vendor(s) – The County shall award the bid to the responsible proposer(s) ranked highest based upon the Selection Criteria. Should negotiations with the highest ranked proposer(s) be unsuccessful, the County shall negotiate with the next highest responsible proposer(s).
- ii. Newspaper Notice – All County Formal Bids shall have a public notice. When utilizing a local newspaper the County Representative shall coordinate with the Procurement Department to ensure all requirements are fulfilled.
- iii. Timing – The following items shall be indicated in the bid packet with their exact date(s):
  - 1) Newspaper Notices

- 2) Public issuance of Formal Procurement
  - 3) Pre-bid/proposal meetings
    - i. May be mandatory or non-mandatory
  - 4) Question and request for clarification from potential bidders
  - 5) County response to questions and request for clarification
  - 6) Bid submittal
  - 7) Selection Committee Meeting
  - 8) Short-listing of proposers (if necessary)
  - 9) Interviews (if necessary)
  - 10) Notification to proposers
  - 11) Contract Negotiation
  - 12) Contract start and end dates
    - i. Notice to Proceed (if construction)
- iv. Interviews – Interviews with the short-listed proposer(s) shall be conducted in a timely manner and conducted in a timeframe which will not put one proposer at an advantage
- v. Best and final offer – It is up to the County Representative to determine if the proposer has submitted their best and final offer. If in the opinion of the County Representative, the proposer has not submitted their best and final offer, the County may request updated pricing from the proposer(s) to ensure the most effective utilization of County funds.
- vi. Documentation – All documents submitted to potential proposers and received from responsible proposers shall be considered a part of the Procurement File and retained by the Procurement Department. The Procurement File shall be held per the timing and terms of the County’s Document Retention Schedule.
- vii. Communication
- 1) All potential proposers shall be communicated with for any change, adjustment, deletion, or addition to the Formal Procurement documents and information. This includes, but is not limited to:
    - i. Timeline (internal and external dates);
    - ii. Selection Committee;

- iii. Selection Criteria;
  - iv. Insurance requirements;
  - v. Bond requirements;
  - vi. Required documentation;
  - vii. Description;
  - viii. Specifications to the project;
  - ix. Short-list of vendors; or
  - x. Cancellation
- 2) When there are significant changes to the scope, specification or any part of the bid, an acceptable amount of time shall be granted to the vendors in order to respond to the changes. This may include an extension of the timeline or cancellation of the bid issuance.
- viii. Award
- 1) Notice of Award – Upon identifying the selected vendor(s), a Notice of Award shall be sent to the selected vendor(s)/responsible bidder. The Notice of Award shall include the proposal date, RFP number and description, proposal amount (including any negotiated prices), start date (if known), certificate of insurance request, W-9 documentation request and ten (10) day timeline allowed for contract review (if contract is available).
    - i. The Notice of Award shall include a reference to the successful bidder’s bid and the initial procurement (including all addenda) as to incorporate them into the contract.
  - 2) Unsuccessful Proposers
    - i. Non-Awarded Proposer/Responsive Bidder – All proposers submitting a proposal that was qualified to be reviewed by the Selection Committee and not short-listed or selected, shall receive a notification stating their proposal

was not selected. Notification shall also include information as to which vendor(s) were short-listed or which vendor(s) were selected. Notifications shall be sent upon short-list creation or Notice of Award acceptance, whichever is first.

- ii. Disqualified Proposer/Non-Responsive Bidder – In the event that a proposer submits a proposal that is deemed unqualified, the proposer shall receive a notification upon the disqualification.
- ix. Cancellation / Non-award
  - i. Upon cancellation of a bid, the County shall inform all potential bidders of the cancellation and, if known, the intention as to the reissuance of the bid. The County may include the rationale as to the cancellation / non-award, and the rationale shall be submitted to the same list of potential bidders that received the bid request.
  - ii. The County may conduct interviews with potential proposers only after all potential proposers have been notified of the cancellation / non-award.
- x. Debrief – Any proposer in an Informal or Formal Procurement shall be offered the opportunity to have a debrief conversation. The request shall be made within ten (10) calendar days after receiving the notification. The debrief conversation shall be conducted after there is a fully executed contract, notification of non-award/cancellation, or in a reasonable amount of time from proposal to provide potential benefit to the proposer. Documentation supplied during

- a debrief conversation is subject to Open Records Request Laws.
- b. Multiple Vendor Award – Intention of awarding multiple contracts for the same Formal Procurement shall be indicated in the Bid Package.
  - i. Same Goods and Services
    - 1) A Formal Procurement may be utilized to qualify multiple vendors for the same goods or services. This will result in multiple contracts for the same goods and services, and the County chooses which vendor will be utilized when a need arises.
  - ii. Complementary Goods and Services
    - 1) A Formal Procurement may be utilized when an entire service line or group of goods is unable to be provided by or sub-contracted by a single vendor. If the intention of multiple contracts is not indicated in the Bid Packet, the County may select only a portion of the requested goods and services, then go out to bid for the remaining goods and services.
- c. Public Record Guidelines – All procurement files, including proposer’s bids, are subject to open records requests. The following documents shall be considered part of the procurement file.
  - i. Bid Packet, attachments, exhibits, schedules and addenda, as published
    - 1) All available upon request
  - ii. Sign in sheet for any pre-bid or pre-proposal meeting
    - 1) Available after meeting has been held
  - iii. Proposals
    - 1) Available upon contract being fully executed or non-award
  - iv. Vendor scoring and proposal amounts
    - 1) Available upon contract being fully executed or non-award

3.05.081: PROPOSALS FROM PRE-QUALIFIED CONTRACTORS



(1) Conditions for Use. When the only criteria for selection are price and timeline, a Contract may be entered into using a pre-qualification process.

(2) Request for Qualifications/Disqualification Process. As appropriate, a Request for Qualifications may be advertised for Persons to submit qualifications for advertised types of Construction, Goods, and Services desired by the County. A Selection Committee will evaluate and weigh submitted qualifications and a master list of qualified Persons shall be maintained. For purchases that do not qualify as small purchases that will be using the pre-qualification process, the County will advertise and qualify Persons for a period of time prior to a Request for Proposals. The Procurement Officer or County Manager shall have the authority to disqualify any bidder or Contractor who has defaulted on quotations or awarded Contracts, and remove them from the qualified prospective Contractors list.

(3) Use of Pre-qualification Process

- a. Request for Proposals. Proposals specifying the scoring criteria for price and timeline shall be solicited from the approved list of qualified prospective Contractors. No other criteria will be considered.
- b. Receipt of Proposals. Proposals shall be opened so as to avoid disclosure of contents to competing Proposers during the process of negotiation.
- c. Discussion with Responsible Proposers and Revisions to Proposals. Discussions may be conducted with Responsible Proposers to assure full understanding of, and responsiveness to, the solicitation requirements. Proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. Any such revisions may be permitted after submission and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing Proposers.

3.05.082: SMALL PURCHASES

Any Procurement not exceeding the threshold for small purchases as approved by the BOCC may be made in accordance with small purchase procedures. Reference S.305.05.070.

3.05.083: SOLE SOURCE PROCUREMENT

A Contract may be awarded for Goods, Services, or Construction without competition after:

- (1) The Procurement Officer determines in writing, with appropriate approval, that there is only one source for the required Goods, Services, or Construction.
- (2) The County Manager determines that extension of an existing contract is in the best interests of the County due to one or more of the following circumstances:
  - a. An offer by the existing contractor to provide, in return for renewal of the existing contractor to provide, capital improvements that will provide a significant benefit to a County asset;
  - b. A determination by the County Manager after investigating the prevailing market for the relevant Goods, Services, or Construction that re-bidding the contract would result in higher costs or lower returns to the County than those enjoyed under the existing contract. Any decision to extend a contract under this subsection (2) shall document the circumstances justifying the extension, and such documentation shall be treated as a public record pursuant to the Colorado Open Records Act.
    - i. The vendor is the original equipment supplier/manufacturer with similar parts or equipment and the warranty would be void by work done by any other supplier/vendor;
    - ii. Parts or equipment are not available from any other manufacturer or distributor;
    - iii. Parts or equipment are compatible with County-owned equipment or materials and non-conformance would require the expenditure of additional funds; or
    - iv. Detailed justification is available which reasonably establishes that the vendor is the sole source practicably available to provide the good or service.
- (3) Documentation – The Sole Source Procurement Justification Request shall be reviewed by the Department Head, Section Leader, Procurement Team and County Manager, each having the ability to reject the Sole Source Justification.

3.05.084: EMERGENCY PROCUREMENTS

Notwithstanding any other provision of this Code, the County Manager may authorize emergency Procurements when there exists a threat to public health, welfare, or safety under emergency conditions, provided that such emergency Procurements shall be made with such competition as is practicable under the circumstances. A written

determination of the basis for the emergency and for the selection of the particular Contractor shall be included in the Contract file.

1. Utilization – Emergency Procurement shall only be utilized in accordance with the Pitkin County Procurement Code.
2. Information Required
  1. Name of the Emergency Incident, as declared by the County Manager
  2. Description of Project/Purchase
  3. Budget or Funding Source
  4. Rationale for Emergency Procurement
3. Documentation – All Emergency Procurements shall be documented utilizing the Emergency Procurement File Memorandum and be signed by the County Manager or Incident Commander

### 3.05.085: OUTSIDE AGENCY BID

A Procurement Officer may award a Contract for Goods, Services, or Construction on the terms and to the Persons that have been selected by the State of Colorado, or other governmental jurisdiction, agency, or department, through an approved procurement process.

- (1) Outreach – A County Representative shall reach out to qualified vendors to submit a proposal for the scope of work, as determined by the County Representative. Qualified vendors are any vendor that has been selected through a competitive bid by another governmental agency or government cooperative group.
- (2) Accepted Proposals – The County Representative shall make a reasonable effort to receive proposals in writing. In the event that this is not possible, or would require an unreasonable amount of effort on the part of the Vendor or the County, a verbal proposal shall be deemed acceptable. Notwithstanding, the proposal from the Vendor shall be in writing.
- (3) Documentation – An Outside Agency Bid shall be documented utilizing an Outside Agency Bid Memo, as approved by the Procurement Department, and signed by the identified parties.
  - a. Information Required – The Outside Agency Bid Memo shall include, but is not limited to:
    - i. The Name, Title and Signature of the County Representative who performed the outreach required by the Outside Agency Bid;
    - ii. Description of Project
    - iii. Budgeted Amount, along with the Budget Line Item Number(s) associated with the Project

- iv. Names of governmental entity or governmental cooperative group
- b. Contract – A vendor selected through the Outside Agency Bid shall sign the Pitkin County Template Contract, as currently approved, or an agreement otherwise agreed upon by the County Attorney’s Office and the vendor.
- c. Pricing – The vendor must grant the County the same pricing that is available through the Outside Agency Bid. The County may be granted more beneficial pricing, if the contract negotiated through the Outside Agency Bid allows. If the vendor is not able to provide the pricing, as agreed upon through the contract negotiated by the Outside Agency, the County Representative must fulfill another Procurement Method.

3.05.086: COMPETITIVE SEALED PROPOSAL–REQUESTS FOR PROPOSALS (RFP)

- (1) Conditions for Use. Contracts shall be awarded by competitive, sealed proposals when no other method of source selection is applicable.
- (2) Requests for Proposals/Qualifications (“RFP” or “RFQ”, respectively). Proposals and/or Qualifications shall be solicited through a Request for Proposals and/or a Request for Qualifications. The solicitation shall include a proposed Contract for the proposal and/or qualifications received.
- (3) Public Notice. Adequate public notice of the Request for Proposals/Qualifications shall be given a reasonable time prior to the deadline for proposals/qualifications submission.
- (4) Receipt of Proposals and/or Qualifications. Proposals and/or Qualifications shall be opened so as to avoid disclosure of contents to competing Proposers during the process of negotiation.
- (5) Selection Criteria. The Request for Proposals and/or Qualifications shall state the scoring criteria to be used in selecting the awarded Proposer.
- (6) Discussion with Responsible Proposers and Revisions to Proposals. Discussions may be conducted with Responsible Proposers to assure full understanding of, and responsiveness to, the solicitation requirements. Proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submission and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing Proposers.

(7) Award. Award shall be made to the Responsible Proposer whose overall score is highest, considering all selection criteria. No other factors or criteria shall be used in the evaluation. The Contract file shall contain the basis on which the award is made.

### 3.05.087: CANCELLATION OF REQUESTS FOR PROPOSALS

A Request for Proposals, Request for Qualifications, or other method of selection may be cancelled, or any or all proposals may be rejected in whole or in part when it is in the perceived best interest of the County.

### 3.05.088: UNSOLICITED BIDS

- A. An Unsolicited Proposal is an offer made by a third party to sell goods or services to the County that has not been solicited or published by the County.
  - i. Differentiation – Before an unsolicited proposal can be accepted, it must first be categorized as a grant request or offer to sell.
    - a. Grant Request is a request for assistance, including financial or other means of assistance, from the County to support a program authorized by law.<sup>3</sup>
    - b. An offer to sell a good or service to the County in the absence of a County defined need or public notice must be properly evaluated before further action is taken.
      - i. Unsolicited Bids are to be directed to the Procurement Department which will review the offer and either reject or share the offer with the Department Head. The Department Head will then determine next steps regarding rejection or procurement.

### 3.05.090: COUNTY STANDARD CONTRACT TYPES

- A. Goods/Equipment/Supplies – Includes personal property or materials, including without limitation, supplies, equipment, parts, printing and other tangible end products.
  - 1. Documents Required
    - i. Packing List or any shipping documents with indication of items delivered
    - ii. Contract, based on threshold
    - iii. Warranty documents

- B. Services – Includes the furnishing of labor, time, or effort by a Contractor, not involving the delivery of a specific end product or for which the end product component is minimal in relation to the services component.
  - 1. Documents Required
    - i. Contract, based on threshold
- C. Construction – Includes the process of building, altering, repairing, improving, or demolishing any fixed public asset, including without limitation any public structure or building, roads, sidewalks, parks, lighting, and landscaping. It does not include routine operations or routine maintenance of existing structures, buildings, real property or other fixed assets.
  - 4. Documents Required
    - d. Notice to Proceed
    - e. Notice of Substantial Completion
    - f. Contract
    - g. Lien Waivers
    - h. Notice to sub-contractors for issuance of final payment
    - i. Timeline for Construction
- D. Master Agreements and Task Orders – Utilized for any on-call or regularly purchased service or good.
  - 1. Documents Required
    - i. Master Agreement
    - ii. Task Orders
  - 2. Procurement Method
    - i. Any Master Service Agreement is to go through the Formal Bid process, unless approved through an exception to the Formal Bid process.
    - ii. The dollar threshold for each Task Order can be changed. Any time the threshold for Formal Bid is to be raised over the limits set forth in Section II.A.2, requiring Formal Bid, the signature of the County Attorney and County Manager shall be required prior to the initial Formal Bid.
  - 3. County Signatures Required
    - i. Master Agreement Formal Bid Threshold
      - a. \$0 – 49,999: Procurement and Contracts Manager, Finance Director or County Manager
      - b. \$50,000 or more: Procurement and Contracts Manager or Finance Director, and County Manager
    - ii. Task Order
      - a. \$0 – 49,999: County Representative
      - b. \$50,000 or more: County Representative and County Manager

- E. Contract Amendment/Change Order – In the event that the contract or agreement changes, a Contract Amendment/Change Order is required. The Contract Amendment/Change Order shall include the complete description of all changes, reason for the change and dollar value.
  - 1. County Signature Requirements
    - i. County Representative signature is required
      - a. Additional County Representative signatures may be required based upon signature authority for the budget line item number(s) being utilized
    - ii. County Manager signature is required for any Contract Amendment/Change Order that is an increase of \$25,000 or 10% of the original value, whichever is lower
- F. Rentals and Leases – Rentals and leases of Goods/Equipment/Supplies are subject to the same thresholds and procurement process as a purchase. The threshold for contract and procurement requirements shall be considered as a monthly rental or the time of the initial term, whichever is longer. All rental agreements shall be reviewed by Procurement and Finance.
  - 1. Leases not subject to the Procurement Code shall be reviewed by the Attorney’s Office.

3.05.091:        CONTRACTS REQUIRING LEGAL REVIEW

Every reasonable effort shall be made by the County Representative to have a contract, if required, utilizing the Pitkin County Template, as provided by the Procurement Department. If a selected vendor has objection to parts of the template contract, the County Representative shall follow the approved Procurement Procedures. The County Attorney’s office has approved standard Contract language for the County. Procurement Officers may vary the clauses in approved Contract language in accordance with internal County policy.

3.05.100.:        CONTRACT PERFORMANCE AND PAYMENT BONDS

(1) When Required - Amounts. The County shall require performance and payment bonds in an amount no less than that required by applicable law.

(2) Authority to Require Additional Bonds. Nothing in this Section shall be construed to limit the authority of the County to require a performance bond, or other security in addition to those bonds, in circumstances other than those specified in Subsection (1) of this Section.

3.05.110:        AUTHORITY TO RESOLVE PROTESTED SOLICITATIONS AND AWARDS

(1) Right to Protest. Any actual or prospective Proposer or Contractor who is aggrieved in connection with the solicitation or award of a Contract may protest to the County Manager

or his/her Designee. The protest shall be submitted in writing within five calendar days after such aggrieved Person knows, or should have known, of the facts giving rise thereto, or within five days of receipt of notice to a non-awarded Proposer, whichever first occurs.

(2) Authority to Resolve Protests. The County Manager, or his/her Designee, shall have the authority to settle and resolve a protest of an aggrieved Proposer or Contractor, actual or prospective, concerning the solicitation or award of a Contract.

(3) Written Response from Procurement Officer. In connection with any written protest, the County Manager, or his/her Designee, shall provide a copy of the written protest to the Procurement Officer whose solicitation or award is the subject of the protest. The Procurement Officer shall submit to the County Manager, within a reasonable time, a written response to the protest, including relevant documents from the solicitation file.

(4) Decision. If the protest is not resolved by mutual agreement, the County Manager, or his/her Designee, shall promptly issue a decision in writing. The decision shall:

- (a) state the reason for the action taken;
- (b) inform the protestant of the right to appeal as provided in this Article; and
- (c) advise the protestant of the amount of bond necessary for the appeal

(5) Notice of Decision. A copy of the decision under Subsection (4) of this Section shall be mailed or otherwise furnished promptly to the protestant and to the Procurement Officer.

(6) Finality of Decision. A decision under Subsection (4) of this Section shall be final and conclusive, unless the protestant appeals administratively to the Board of County Commissioners acting as the Procurement Appeals Board.

### 3.05.111: JURISDICTION OF THE PROCUREMENT APPEALS BOARD

Within seven days after receipt of notice of a decision under Section 4-101, a Contractor, prospective or actual, or Proposer may appeal the County Manager's decision to the Procurement Appeals Board by submitting a notice of appeal to the County Manager. No other appeals are permitted

At the time an appeal to the Procurement Appeals Board is filed, it must be accompanied by cash or security in a form satisfactory to the County Attorney to cover the County's costs in defending the decision and the County's costs for delay in initiating the purchase or Contract. The security shall be in an amount determined by the County Attorney, payable to or for the benefit of the Board of County Commissioners of Pitkin County, Colorado. The full amount of cash security, without interest, shall be refunded, and any other form of security cancelled or released, in the event of a successful appeal

### 3.05.112: RECORD ON APPEAL



Upon receipt of the notice of appeal, the County Manager, or his/her Designee, shall promptly prepare the record on appeal for review by the Procurement Appeals Board. The record on appeal shall consist of the written protest, the documents in the Procurement Officer's file used in response to the protest, any written decision of the County Manager, or his/her Designee, and the notice of appeal. This record on appeal shall be submitted to the Procurement Appeals Board, and no other evidence may be considered on the appeal.

3.05.113: PROCUREMENT APPEALS BOARD'S DECISION ON APPEAL

Within fifteen days of receipt of the record on appeal, the Procurement Appeals Board shall decide the appeal. The action of the County Manager, or his/her Designee, shall be upheld unless the Procurement Appeals Board determines that the County Manager, or his/her Designee, acted arbitrarily or capriciously. The decision will be memorialized in a written resolution, and shall be final upon adoption.

3.05.114: REMEDY FOR A SUCCESSFUL APPEAL

In the event an appeal is successful, the sole remedy shall be to re-initiate the Procurement process.

3.05.120: OTHER PROVISIONS

3.05.121: INTERNAL REPORTING

Quarterly Procurement Reporting

- ii. On a quarterly basis, and/or as requested, the Procurement and Contracts Manager shall provide the Finance Director with a report indicating for the given quarter:
  - a. Total number of contracts and amendments fully executed
  - b. Total dollar amount for all contracts and amendments executed
  - c. Breakdown of number and dollar amount attributed to each of the following procurement types:
    - i. No procurement required
    - ii. Sole Source
    - iii. Emergency Procurement
    - iv. Outside Agency Bid
    - v. Informal Procurement
    - vi. Formal Procurement

3.05.122: COMPLIANCE WITH FUNDING REQUIREMENTS

When a Procurement includes the expenditure of external assistance or contract funds, the Procurement Officer shall comply with applicable federal or state law or Grant conditions and/or determination requirements. County Project Leads and/or Department Representatives are responsible for, in conjunction with Procurement and Finance assistance, ensuring that any and all funding requirements are satisfied and appropriately documented.

- iii. Expenditures – All expenditures and invoices shall be reviewed for completeness and conformation to the rules and regulations set forth by the grand funder.
- iv. Site Visits – An onsite review should be conducted for any recipient that is determined to have a significant risk of non-performance of the grant or any recipient that has not had an onsite review performed in a suitable time period.
- v. Risk Assessment – Subrecipients that fail to meet criteria set forth by the Department shall be subject to a Corrective Action Plan.
  - a. A qualified audit report, or failure to have a current audit report
  - b. Inadequate response to a financial questionnaire
  - c. History of non-compliance
  - d. History of non-performance or failure to use funds for their authorized purposes
  - e. New subrecipient (or new to this type of project)
  - f. New personnel or systems
  - g. Large subaward/large percentage pass-through
  - h. Award size relative to subrecipient’s sponsored research portfolio
  - i. Criticality to overall success of pass-through entity’s project
  - j. Subrecipient in a remote location
  - k. Type of subrecipient
- A. Progress Reports – All sub-recipients shall be continuously monitored for the following:
  - vi. Is subawardee’s work progressing according to schedule?
  - vii. Are deliverables/reports being provided in a timely manner?
  - viii. Are compliance requirements up-to-date?
  - ix. Do invoices reflect allowable, allocable, and reasonable costs?
  - x. Are funds being spent according to the budget and project time lines?
  - xi. Is committed cost sharing verified?
- B. Closeout
  - xii. Verify fulfillment of any cost-sharing requirements
  - xiii. Verify receipt of invoice marked “Final”

- xiv. Obtain signed Refunds, Rebates, Credits Form (if necessary)
- xv. Verify clear understanding about record retention
- xvi. Audit sub-award (if necessary)
- xvii. Verify sub-recipient is not debarred or suspended
- xviii. Verify that sub-recipient has filed an audit report (or equivalent) through sub-award end date
- xix. Adjust County's records if necessary to reflect changes in subaward costs

C. Record Retention – The Department shall follow the record retention schedule of the appropriate party. In the event of conflict between the granting party and County, the Department shall retain the records for the longer of the two timelines.

3.05.123: SEVERABILITY

Should any one or more sections of this Procurement Code be judicially declared invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining sections of this Procurement Code; the intention being that the various sections are severable.