



LYON COUNTY ADMINISTRATIVE POLICIES AND PROCEDURES

TOPIC: **Procurement Policies and Procedures**

NUMBER: **2-7**

EFFECTIVE: 10/18/2018

REVISED: 1/06/2025

REVIEWED:

REFERENCE: **NRS 332, NRS 338, 2 CFR 200**

POLICY CUSTODIAN: **COUNTY MANAGERS OFFICE**

A. APPLICATION

1. This policy shall apply to every expenditure of public funds irrespective of their source, including state and federal assistance funds. Nothing in this policy shall prevent the County, or any governmental body or political subdivision from complying with the terms and conditions of any grant, gift, bequest, or cooperative agreement.
2. When the procurement involves the expenditure of federal assistance or contract funds, the procurement shall be conducted in accordance with any applicable mandatory federal law and regulation which is not reflected in this policy. When this policy does not specifically address a procurement issue, the issue may be resolved in accordance with the applicable sections of NRS 332, NRS 338, and other Lyon County policies.

B. STANDARDS OF CONDUCT

1. No officer, employee or agent of the County shall participate in the selection, award and administration of contracts on behalf of Lyon County if such participation would arise in a conflict of interest. Such a conflict of interest would arise when the employee, officer or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein;
2. Has a financial interest or other interest in or a tangible personal benefit from a firm considered for contract;
3. The officers, employees, and agents of the County may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.
4. Employees, officers or agents of the County that are found to be in violation of the article(s) above will be held accountable. Disciplinary actions may include any or all of the following: termination of employment, removing the appointed officer from the office, dissolving the relationship between the County and agent.

C. PURCHASE ORDERS

A purchase order is a legally binding document that obligates the County to make a purchase. Lyon County requires purchase orders for certain purchases to ensure compliance with budget, state procurement statutes, and federal grant agreements and regulations. Prior to signature, the approver of the purchase order is required to review the purchase order request to ensure that the item has been budgeted and is within budget, is in accordance with local government purchasing requirements in NRS 332 and 338, and is in accordance with applicable federal grant agreements and regulations.

Purchases for \$10,000 or more

1. County purchase orders are required for purchases of \$10,000 or more. A purchase order must be issued prior to ordering the items or services being purchased. These purchase orders must be approved by either the Comptroller or the County Manager. This approval is documented by the approver's signature on the purchase order.
2. Contracts or task orders formally approved by the Board of Commissioners do not require purchase orders, but may have one issued if requested.

Purchases under \$10,000

1. Purchase orders are not required for purchases under \$10,000; however, a purchase order may be completed if required by a vendor.
2. Individual departments may choose to set up their own purchase order/requisition process for purchases under \$10,000. The process must be pre-approved by the Comptroller. These purchase orders may be approved and signed by the Department Head or designee.

D. CONTRACTS

1. Lyon County will utilize contracts for purchases of services.
 - a. The District Attorney's office has created two standard contracts that may be used by departments.
 - 1) A short-form contract may be used for purchases of services up to \$25,000.
 - 2) A long-form contract may be used for any purchase of services.
 - b. Vendor provided contracts may used; however, normally a standard long-form contract will be used with an unsigned vendor-provided contract used as an attachment to specify the scope of work.
2. Lyon County will utilize contracts for public works projects.
3. If a master agreement is in place with a vendor, a task order may be used instead of a contract for purchase of services or public works projects.
4. Prior to signature, contracts will be reviewed and approved by the District Attorney's Office, Comptroller, and Human Resources to ensure legal and risk management provisions are adequate.
5. Contracts and task orders over \$50,000 will go to the Board of Commissioners for approval or signature, while contracts and task orders under \$50,000 may go to the Board of Commissioners or may be signed by the County Manager or designee.

E. GENERAL METHODS OF PROCUREMENT

Lyon County will use the following methods of procurement for non-federal grant purchases. Federal grant purchases will also be subject to these methods of procurements, but may also have additional requirements; so the additional Federal grant purchase policies and procedures are addressed separately in this section. When Federal requirements conflict with State or County purchasing policies and procedures, the Federal requirements will be followed.

1. Goods and services purchases – NRS 332.
 - a. Under \$50,000 annually – no bidding requirement
These purchases require departments to perform due diligence to purchase for the best price. Documentation of due diligence is not required.
 - b. \$50,000 - \$100,000 annually – informal bidding requirement
These purchases require quotes from two or more vendors. The department should choose the lowest responsive and responsible vendor. The department should document the quotes received and selection of the most responsive quote and attach them to the voucher when being paid.
 - c. Over \$100,000 annually – formal bidding requirement
These purchases require formal advertising and contracts are awarded by the Board of Commissioners to the lowest responsive and responsible bidder. The Board of Commissioners may also reject all bids received. The Clerk-Treasurer's Office is normally the department that publishes the advertisement and conducts the bid opening.
 - d. Competitively bid items by other governments
Lyon County may make purchases by using pricing from other competitively bid governmental contracts, such as Nevada State Purchasing, GSA, NASPRO, etc. Lyon County may also piggyback off of pricing used in a contract for another government. These type of purchases meet the state requirements for either informal or formal bidding.
 - e. Exceptions to informal or formal bidding requirements
There are a number of exceptions to informal and formal bidding requirements in NRS 332.112-332.148; including, but not limited to: professional services; computer hardware and software, systems of communications, sole source. Engineering services may not be awarded based on price. The Comptroller, in consultation with the District Attorney's Office, can assist departments in determination if goods or services qualify under an exception.
2. Public Works purchases – NRS 338
 - a. Definition of a public work – NRS 338.010
Public works include any project for new construction, repair or reconstruction of a project financed in whole or in part from public money for: public buildings, jails and prisons, public roads, public highways, public streets and alley, public utilities, publically owned water mains and sewers, public parks and playgrounds, public convention facilities, and all other publically owned works and property.
 - b. County may perform work under \$100,000 – NRS 338.1444
The County may elect to perform its own work on a public works project under \$100,000 subject to the requirements of NRS 338.1444.

- c. Requirements for awarding a public works contract
 - 1) *\$25,000 or less – NRS 383.13862*
The County may award a contract after soliciting a bid from at least one licensed contractor.
 - 2) *\$25,000 to \$100,000 – NRS 338.13862*
The County may award a contract to the lowest responsive and responsible bidder after soliciting a bid from at least three licensed contractors. Preferences of 5% will be given for local businesses owned and operated by veterans with service-connected disabilities are applicable in NRS 338.1384-338.13847.
 - 3) *\$100,000 and above – NRS 338.3185*
The County must formally advertise and bid a project between \$100,000, with the Board of Commissioners formally awarding the contract to the lowest responsive and responsible bidder or the best bid (best bid defined under NRS 338.1389 for contracts over \$250,000).
 - 4) *Construction manager at risk – NRS 338.1685 to 338.16995*
The County may utilize the construction manager at risk method by following the requirements in NRS 338.1685 to 338.16995.
 - 5) *Design-Build – NRS 338.1711 to 338.173*
The County may utilize the design-build construction method by following the requirements in NRS 338.1711 to 338.173.
- d. Prevailing wage
In accordance with NRS 338.080, state prevailing wage is applicable to public works projects in excess of the exemption, which is currently \$250,000.

F. FEDERAL METHODS OF PROCUREMENT

Lyon County will use the following methods of procurement when making purchases that involve any level of federal funding. These methods of procurement work in conjunction with the General Methods of Procurement, but when there is a conflict between the two methods, the Federal Methods of Procurements in 2 CFR 200 will be followed. Key provisions of 2 CFR 200 are as follows:

- 1. Purchase methods
 - a. Micropurchase – Less than \$10,000
 - 1) Micropurchases are purchases of supplies or services less than the threshold set by the Federal Office of Management and Budget (OMB). The threshold as of January 6, 2025 is \$10,000 and may be changed from time-to-time by the OMB. If it is a construction project involving federal funding, the Davis-Bacon threshold for prevailing wage is applicable (as of January 6, 2025 it is \$2,000).
 - 2) The County must distribute micropurchases equally among qualified suppliers to the extent practical. This doesn't prohibit the County from using the lowest cost supplier.
 - 3) Micropurchases may be awarded without soliciting bids if the price is considered reasonable.

- b. Small purchase procedures - \$10,000 to \$250,000
 - 1) Small purchase procedures are simple and informal procurement standards for securing services, supplies, or other property that don't cost more than the Simplified Acquisition Threshold (\$250,000 as of January 6, 2025).
 - 2) Price or rate quotations must be obtained from an adequate number of qualified sources, which is defined as no less than 2 sources capable of completing the contract.
- c. Sealed bids - \$250,000 or more
 - 1) Sealed bid procedures are formal procurement standards for securing services, supplies, or other property that cost more than the Simplified Acquisition Threshold (\$250,000 as of January 6, 2025). Price or rate quotations must be obtained from an adequate number of qualified sources.
 - 2) This is the preferred method for construction if:
 - a) A complete, adequate, and realistic specification is available.
 - b) Two or more responsible bidders are willing and able to compete.
 - c) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
 - 3) The invitation to bid will be publically advertised and bids must be solicited from an adequate number of know suppliers with sufficient time to respond to the bid.
 - 4) The invitation to bid will include specifications and attachments for a bidder to respond.
 - 5) All bids will be publically opened at the time and place in the invitation.
 - 6) A written contract for a fixed price will be made to the lowest responsible bidder. The contract will be approved by the Board of Commissioners.
 - 7) All bids may be rejected for a sound, documented reason.
- d. Competitive proposals - \$250,000 or more
 - 1) Competitive proposals are when more than one source submits an offer for either a fixed price or a cost-reimbursement type contract.
 - 2) Requests for proposals must be publicized and identify all evaluation factors and their relative importance.
 - 3) Proposals must be solicited from an adequate number of qualified sources, which is defined as no less than 2 sources capable of completing the contract.
 - 4) The County must have a written method for conducting technical evaluations of the proposals and for selecting recipients.
 - 5) Contracts must be awarded to the most responsive firm whose proposal is most advantageous to the program.
 - 6) The County may use competitive proposal procedures for qualifications-based procurement of architectural/engineering services, with the most qualified applicant being selected subject to negotiation of fair and reasonable compensation.
- e. Non-competitive proposals
 - 1) Non-competitive proposals involve procurement from only one source when at least one of the following circumstances apply:

- a) Item is available only from a single source.
 - b) Public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
 - c) The Federal Awarding Agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the County.
 - d) After solicitation of a number of sources, competition is determined inadequate.
2. Contract cost and price and provisions
- a. The County must perform a cost analysis for every procurement action in excess of the Simplified Acquisition Threshold, including contract modifications. The County must make independent estimates before receiving bids or proposals.
 - b. The County must negotiate profit as a separate element of the price for each contract where there is no price competition.
 - c. Costs or prices based on estimated costs for contracts are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable under 2 CFR 200 Subpart E – Cost Principles.
 - d. Cost plus a percentage of costs and percentage of construction cost methods of contracting must not be used.
 - e. The County’s contract must contain the applicable provisions described in Appendix II to 2 CFR 200 – Contract Provisions for non-Federal Entity Contracts under Federal Awards.
3. Bonding requirements
- For construction or facility improvement contracts, the County should require the following bonding:
- a. A bid guarantee from each bidder equivalent to 5% of the bid price. The bid guarantee must consist of a firm commitment, such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
 - b. A performance bond on the part of the contractor for 100% of the contract price.
 - c. A payment bond on the part of the contractor for 100% of the contract price.
4. Contracting with small and minority businesses, women’s business enterprises, and labor surplus area firms
- a. The County must take all necessary affirmative steps to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.
 - b. Affirmative action steps:
 - 1) Placing qualified small and minority businesses and women’s business enterprises on solicitation lists.
 - 2) Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources.
 - 3) Dividing total requirement, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises.
 - 4) Establishing delivery schedules, where the requirement permits, which

encourage participation by small and minority businesses, and women's business enterprises.

- 5) Using the services and assistance, as appropriate, of such organization of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce, and;
 - 6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative action steps in 1 through 5.
5. Prevailing Wage
- a. If there is a construction project in excess of the Davis-Bacon threshold (\$2,000 as of January 6, 2025) involving federal funding, federal prevailing wage is applicable. If state prevailing wage is also applicable, the higher of state prevailing wage or federal prevailing wage will be used for each job.
6. Procurement of recovered materials
- The County complies with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act by:
- a. Procuring items designated (by EPA in 40 CFR part 247) that contain the highest percentage of recovered materials practical, consistent with maintaining a satisfactory level of competition, where the purchase price exceeds \$10,000 or the value of the quantity acquired the prior fiscal year exceed \$10,000.
 - b. Procuring solid waste management services in a manner that maximizes energy and resource recovery.
 - c. Establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guideline.
7. Procedures
- a. The County will take all necessary measures to avoid the acquisition of unnecessary or duplicative items;
 - b. Consideration will be given to consolidating or breaking out procurements to obtain a more economical purchase;
 - c. The County will enter, when deems applicable by the governing body, into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.
 - d. The County will give consideration to purchase Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
 - e. The County will only award contracts to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance and financial and technical resources.
 - f. In compliance with 2 CFR Part 180 and 2 CFR Part 183, the County is prohibited from contracting with or making subawards under covered transactions to parties that are debarred or suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. Buyers must actively attempt to verify that a vendor is not debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. This verification may be accomplished by (1) Excluded Parties List System (EPLS) maintained by the General Services Administration (GSA) and available at <https://www.sam.gov/portal/public/SAM/>, (2) collecting a

- certificate from the entity, or (3) adding a clause or condition to the covered transaction with that entity.
- g. In compliance with 2 CFR 200 Part 216, the County is prohibited from contracting with or making subawards under covered transactions to procure, obtain, or extend or renew a contract for covered telecommunications equipment or services with any company described in Section 889 or Public law 115-232. This includes telecommunications equipment or services produced by (including any subsidiary or affiliate of such entities): Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company. It also includes any entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
 - h. Certain federal grants may have additional requirements to buy or provide preference for products made in America. The County will follow these grant requirements as set forth in the grant agreement and in accordance with applicable federal law.
 - i. The County will maintain records sufficient to detail the history of procurement. These records will include, but are not limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
 - j. The County may use time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of the actual cost of materials and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses and profit.
 - k. The County will exercise its best administrative practice and sound business judgement when settling contractual and administrative issues arising out of procurements.
8. Competition
- a. The County will conduct all procurement transactions in a manner providing full and open competition. Contractors that develop or draft specifications, requirements, statements of work or invitations for bid or requests for proposals will be excluded from competing for procurements for the county. Some of the situations considered to be restrictive of competition include, but are not limited to:
 - 1) Placing unreasonable requirements of firms in order for them to qualify to do business;
 - 2) Requiring unnecessary experience and excessive bonding;
 - 3) Noncompetitive pricing practices between firms or between affiliated companies;
 - 4) Noncompetitive contracts to consultants that are on retainer contracts;
 - 5) Organizational conflicts of interests;
 - 6) Specifying a brand name product instead of allowing an equal product to be offered and describing the performance or other relevant requirements of the procurement; and

- 7) Any arbitrary action in the procurement process.
- b. The County will conduct procurements of goods and services for federal grant expenditures in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of its bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state and local licensing laws. When contracting for architectural and engineering (A&E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
 - c. Solicitations will incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description will not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, will set forth those minimum essential characteristics and standards to which it must conform it is to satisfy its intended use. Detailed product specifications shall be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand-name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly state; and identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.
 - d. The County ensures that all prequalified lists or persons, firm or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. The County shall not preclude potential bidders from qualifying during the solicitation period.