PROCUREMENT POLICY
RESOLUTION 047-2019
RESOLUTION 047-2019

AN RESOLUTION PROVIDING FOR THE FAIR AND EFFICIENT MANNER OF PURCHASING TANGIBLE PERSONAL PROPERTY AND SERVICES IN CATRON COUNTY; ESTABLISHING AN EFFECTIVE DATE AND PENALTIES

WHEREAS, the Catron County Board of County Commissioners finds that it is necessary to adopt rules and regulations to provide for the fair and equitable treatment of all persons involved in public procurement in Catron County; and,

WHEREAS, the Catron County Board of County Commissioners seeks to maximize the purchasing value of public funds; and,

WHEREAS, the Catron County Board of County Commissioners wishes to provide safeguards for maintaining a procurement system of quality and integrity to protect the health, welfare and safety of the citizens of Catron County pursuant to NMSA 1978, Section 4-37-1 (1975); and,

NOW, THEREFORE, BE IT RESOLVED by the Catron County Board of Commissioners as follows:

Table of Contents
PURCHASING RULES AND REGULATIONS 9
1.0 DEFINITIONS 9
  1.1 GENERAL ................................................................................................................. 9
  1.2 Definition: ARCHITECTURAL SERVICES .......................................................... 9
  1.3 Definition: APPLICABLE PUBLIC OFFICIAL .................................................... 10
  1.4 Definition: BRAND-NAME SPECIFICATION ...................................................... 10
  1.5 Definition: BRAND-NAME OR EQUAL SPECIFICATION ................... 10
  1.6 Definition: BUSINESS ......................................................................................... 10
  1.7 Definition: CAMPAIGN CONTRIBUTION .......................................................... 10
  1.8 Definition: CATALOGUE PRICE ............................................................................ 10
  1.9 Definition: CENTRAL PURCHASING OFFICE ............................................... 10
  1.10 Definition: CHANGE ORDER .............................................................................. 11
  1.11 Definition: CHIEF PROCUREMENT OFFICER .................................................. 11
  1.12 Definition: CONFIDENTIAL INFORMATION ..................................................... 11
  1.13 Definition: CONSTRUCTION .............................................................................. 11

Page 2 of 53
1.47 Definition: PENDENCY OF THE PROCUREMENT PROCESS .................. 15
1.48 Definition: PERSON ........................................................................ 15
1.49 Definition: PRICE ANALYSIS .......................................................... 16
1.50 Definition: PRICING DATA ................................................................. 16
1.51 Definition: PROCUREMENT ............................................................... 16
1.52 Definition: PROCUREMENT OFFICER ............................................. 16
1.53 Definition: PROFESSIONAL SERVICES ........................................... 16
1.54 Definition: PROSPECTIVE CONTRACTOR ........................................ 16
1.55 Definition: PURCHASE ORDER ......................................................... 16
1.56 Definition: PURCHASE REQUEST ..................................................... 16
1.57 Definition: QUALIFIED PRODUCTS LIST ........................................... 17
1.58 Definition: REGULATION ................................................................ 17
1.59 Definition: REQUEST FOR PROPOSALS ........................................ 17
1.60 Definition: RESPONSIBLE BIDDER .................................................. 17
1.61 Definition: RESPONSIBLE OFFEROR ............................................. 17
1.62 Definition: RESPONSIVE BID ........................................................... 17
1.63 Definition: RESPONSIVE OFFER ....................................................... 17
1.64 Definition: REPRESENTATIVE OF A PROSPECTIVE CONTRACTOR ...... 17
1.65 Definition: SELECTION COMMITTEE ............................................... 17
1.66 Definition: SERVICES ................................................................... 18
1.67 Definition: SMALL BUSINESS ........................................................ 18
1.68 Definition: SPECIFICATION ............................................................ 18
1.69 Definition: SURVEYING SERVICES ............................................... 18
1.70 Definition: TANGIBLE PERSONAL PROPERTY .................................. 18
1.71 Definition: USING AGENCY ............................................................. 18

2.0 PURCHASE REQUESTS 19

2.1 SPECIFICATION FOR PURCHASE REQUISITIONS .......................... 19
2.2 SMALL PURCHASES ........................................................................ 19
2.3 PROFESSIONAL SERVICES ............................................................... 20

3.0 EXEMPTIONS FROM THE PROCUREMENT CODE 20

4.0 SOLE SOURCE 22

5.0 EMERGENCY PROCUREMENTS 22

5.1 SOLE SOURCE AND EMERGENCY PROCUREMENTS: CONTENT AND... 23
SUBMISSION OR RECORD ...................................................................... 23
6.0 GARAGE LIABILITY REQUIREMENT 23
7.0 COMPETITIVE SEALED BIDS 23
  7.1 COMPETITIVE SEALED BIDS: REQUIREMENTS ..................................... 24
  7.2 COMPETITIVE SEALED BIDS: INVITATION FOR BIDS .......................... 24
  7.3 SIGNATURES FOR RFB ....................................................................... 24
  7.4 CAMPAIGN CONTRIBUTION DISCLOSURE ......................................... 24
  7.5 AMENDMENTS TO INVITATION TO BID .............................................. 24
  7.6 COMPETITIVE SEALED BIDS: PUBLIC NOTICE ................................. 25
  7.7 COMPETITIVE SEALED BIDS: RECEIPT AND ACCEPTANCE OF BIDS .... 26
  7.8 COMPETITIVE SEALED BIDS: CORRECTION OR WITHDRAWAL OF BIDS .......................................................... 26
  7.9 COMPETITIVE SEALED BIDS: BID OPENING .................................. 26
  7.10 COMPETITIVE SEALED BIDS: AWARD .......................................... 27
  7.11 COMPETITIVE SEALED BIDS: MULTI-STEP SEALED BIDDING .......... 27
  7.12 COMPETITIVE SEALED BIDS: IDENTICAL BIDS ............................. 27
8.0 COMPETITIVE SEALED PROPOSALS 27
  8.1 COMPETITIVE SEALED PROPOSALS: CONDITIONS FOR USE ............. 27
  8.2 COMPETITIVE SEALED PROPOSALS: REQUEST FOR PROPOSALS ...... 28
  8.3 SIGNATURES FOR RFP ....................................................................... 28
  8.4 CAMPAIGN CONTRIBUTION DISCLOSURE ......................................... 29
  8.5 COMPETITIVE SEALED PROPOSALS: PUBLIC NOTICE ..................... 29
  8.6 AMENDMENTS TO THE REQUEST FOR PROPOSALS ........................ 29
  8.7 MODIFICATION OR WITHDRAWAL OF PROPOSALS ......................... 29
  8.8 LATE PROPOSALS, LATE WITHDRAWALS AND LATE MODIFICATIONS ........................................................................... 29
  8.9 RECEIPT AND OPENING OF PROPOSALS ........................................ 30
  8.10 COMPETITIVE SEALED PROPOSALS: EVALUATION FACTORS .......... 30
  8.11 COMPETITIVE SEALED PROPOSAL: NEGOTIATIONS ......................... 30
  8.12 COMPETITIVE SEALED PROPOSALS: DISCLOSURE; RECORD ............ 30
  8.13 COMPETITIVE SEALED PROPOSALS: AWARD ................................. 30
9.0 PROCUREMENT OF PROFESSIONAL SERVICES 30
  9.1 PROCUREMENT OF PROFESSIONAL SERVICES; SELECTION AND AWARD ................................................................................. 30
  9.2 PROCUREMENT OF PROFESSIONAL SERVICES; PROFESSIONAL TECHNICAL ADVISORY ASSISTANCE ................................. 30
9.3 CONTRACTS FOR THE DESIGN AND INSTALLATION OF MEASURES FOR THE CONSERVATION OF NATURAL RESOURCES .................................. 31
9.4 COMPETITIVE SEALED QUALIFICATIONS-BASED PROPOSALS: ARCHITECTS; ENGINEERS; LANDSCAPE ARCHITECTS; SURVEYORS; ........ 31
ADDITIONAL REQUIREMENTS ................................................................ 31
9.5 PUBLIC WORKS PROJECT DELIVERY SYSTEM; DESIGN AND BUILD; PROJECTS AUTHORIZED ......................................................... 32
9.6 COMPETITIVE SEALED QUALIFICATIONS-BASED PROPOSALS: ARCHITECTS; ENGINEERS; LANDSCAPE ARCHITECTS; SURVEYORS; .... 33
SELECTION PROCESS ........................................................................... 33
9.8 COMPETITIVE SEALED QUALIFICATIONS-BASED PROPOSALS: AWARD OF ARCHITECT; ENGINEERING, LANDSCAPE ARCHITECT AND SURVEYING CONTRACTS .................................................. 34
9.9 ARCHITECTURAL, ENGINEERING, LANDSCAPE ARCHITURAL AND SURVEYING CONTRACTS ...................................................... 35

10.0 BID SECURITY 35
10.1 BID SECURITY: REQUIREMENTS .................................................. 35
10.2 DIRECTED SURETYSHIP PROHIBITED: PENALTY ...................... 35
10.3 BID SECURITY: REJECTION OF BIDS ........................................ 35
10.4 BID AND PERFORMANCE BONDS: ADDITIONAL REQUIREMENTS 36
10.5 BONDING OF SUBCONTRACTORS .............................................. 36

11.0 MULTIPLE SOURCE AWARD 36
11.1 MULTIPLE SOURCE AWARD: LIMITATIONS ON USE .................. 36
11.2 MULTIPLE SOURCE AWARD: DETERMINATION REQUIRED ........ 36

12.0 REJECTION OR CANCELLATION OF BIDS OR PROPOSALS 36
12.1 CANCELLATION OF SOLICITATIONS OR REJECTION OF ALL BIDS OR PROPOSALS .............................................................. 36
12.2 REJECTION OF INDIVIDUAL BIDS OR PROPOSALS: .................. 37
12.3 REJECTION OR CANCELLATION OF BIDS OR REQUESTS FOR PROPOSALS: NEGOTIATIONS .................................................... 38
12.4 IRREGULARITIES IN BIDS OR PROPOSALS ................................ 38
12.5 RESPONSIBILITY OF BIDDERS AND OFFERORS ......................... 38
12.6 PREQUALIFICATION OF BIDDERS ............................................ 38

13.0 CONSTRUCTION CONTRACTS 38
13.1 CONSTRUCTION CONTRACTS: CENTRAL PURCHASING OFFICE ....... 38
13.2 CONSTRUCTION CONTRACTS: CONSTRUCTION MANAGEMENT .......... 39
SERVICES .................................................................................................................. 39
13.3 CONSTRUCTION CONTRACT: RIGHT TO INSPECT PLANT .......... 39
14.0 PROCUREMENT UNDER EXISTING CONTRACTS .......... 39
15.0 COOPERATIVE PROCUREMENT 40
15.1 COOPERATIVE PROCUREMENT: AUTHORIZED ................................. 40
15.2 COOPERATIVE PROCUREMENT: RECYCLED CONTENT GOODS .......... 40
16.0 SALE, ACQUISITION OR USE OF PROPERTY BY THE COUNTY 40
17.0 COST OR PRICING DATA 41
17.1 COST OR PRICING DATA: REQUIRED .................................................. 41
17.2 COST OR PRICING DATA: NOT REQUIRED .......................................... 41
17.3 COST OR PRICING DATA: CHANGE ORDERS OR CONTRACT ........ 41
MODIFICATIONS .................................................................................................. 41
17.4 COST OR PRICING DATA: CHANGE ORDERS, CONTRACT .............. 41
MODIFICATIONS, EXCEPTIONS ................................................................. 41
17.5 COST OR PRICING DATA: CERTIFICATION REQUIRED .................... 41
17.6 COST OR PRICING DATA: PRICE ADJUSTMENT PROVISION REQUIRED .................................................................................................................................................. 41
17.7 COST OR PRICE DATA: ANALYSIS ...................................................... 42
17.8 COST PRINCIPLES: REGULATIONS ..................................................... 42
17.9 AUDIT OF COST OR PRICING DATA .................................................. 42
18. CONTRACT AUDIT 42
19. TYPES OF CONTRACTS 42
19.1 MULTI-TERM CONTRACTS: SPECIFIED PERIOD .............................. 43
19.2 MULTI-TERM CONTRACTS: DETERMINATION PRIOR TO USE .......... 43
19.3 MULTI-TERM CONTRACTS: CANCELLATION DUE TO UNAVAILABILITY OF FUNDS ................................................................................................................. 43
20. PROCUREMENT OF USED ITEMS 43
20.1 PROCUREMENT OF USED ITEMS: APPRAISAL REQUIRED: COUNTY ... 44
ROAD EQUIPMENT EXCEPTION FOR AUCTIONS ........................................... 44
20.2 TRADE OR EXCHANGE OF USED ITEMS: APPRAISAL REQUIRED ...... 44
20.3 RECEIPT: INSPECTION; ACCEPTANCE OR REJECTION OF DELIVERIES ......................................................................................................................... 44
21. PAYMENTS PURCHASES 45
22. BRAND-NAME SPECIFICATION 46
22.1 BRAND-NAME SPECIFICATION: USE ........................................ 46
22.2 BRAND-NAME SPECIFICATION: COMPETITION .................. 46
22.3 BRAND-NAME OR EQUAL SPECIFICATION: REQUIRED ....... 46
CHARACTERISTICS ............................................................... 46
22.4 BRAND-NAME OR EQUAL SPECIFICATION: REQUIRED LANGUAGE .. 46
23. UNIFORM CONTRACT CLAUSES ........................................... 46
24. PRICE ADJUSTMENTS ....................................................... 47
25. PROCUREMENT PROTEST ................................................... 47
25.1 RIGHT TO PROTEST .......................................................... 47
25.2 PROCUREMENTS AFTER PROTEST ........................................ 47
25.3 AUTHORITY TO RESOLVE PROTESTS ............................... 47
25.4 PROTEST: DETERMINATION ............................................. 47
25.5 PROTEST: NOTICE OF DETERMINATION ........................... 48
26.0 AUTHORITY TO DEBAR OR SUSPEND .............................. 48
26.1 CAUSES FOR DEBARMENT OR SUSPENSION: TIME LIMIT .... 48
26.2 DEBARMENT OR SUSPENSION: DETERMINATION .............. 49
27. EXECUTION OF CONTRACT .................................................. 49
27.1 REMEDIES PRIOR TO EXECUTION OF CONTRACT .................. 49
27.2 RATIFICATION OR TERMINATION AFTER EXECUTION OF CONTRACT ................................................................. 49
27.3 JUDICIAL REVIEW ............................................................ 49
28. ASSISTANCE TO SMALL BUSINESS ................................. 50
28.1 ASSISTANCE TO SMALL BUSINESS: POLICY ....................... 50
28.2 ASSISTANCE TO SMALL BUSINESS: DUTIES OF THE PURCHASING AGENT ................................................................. 50
28.3 ASSISTANCE TO SMALL BUSINESS: BID BONDS; REDUCTION .... 50
29. ANTIPOVERTY PROGRAM BUSINESS ................................. 50
30. PUBLIC ACQUISITION OF AMERICAN-MADE MOTOR VEHICLES 50
REQUIRED ................................................................. 50
31. PROCUREMENTS PURSUANT TO THE CORRECTIONS ............... 51
INDUSTRIES ACT ............................................................... 51
32. BRIBES, GRATUITIES AND KICKBACKS .............................. 51
32.1 UNLAWFUL EMPLOYEE PARTICIPATION PROHIBITED ............. 51
32.2 BRIBES, GRATUITIES AND KICKBACKS: CONTRACT REFERENCE .. 51
REQUIRED ................................................................. 51
32.3 CONTINGENT FEES PROHIBITED
32.4 CONTEMPORANEOUS EMPLOYMENT PROHIBITED
32.5 WAIVERS FROM CONTEMPORANEOUS EMPLOYMENT AND UNLAWFUL EMPLOYEE PARTICIPATION PERMITTED
32.6 USE OF CONFIDENTIAL INFORMATION PROHIBITED

33. CIVIL PENALTY 52
34. RECOVERY OF VALUE TRANSFERRED OR RECEIVED; ADDITIONAL CIVIL PENALTY 52
35. KICKBACKS: ADDITIONAL CIVIL PENALTY 52
36. PENALTIES 53
37. SEVERABILITY 53
38. EFFECTIVE DATE 53
39. REPEAL OF FORMER POLICY 53

PURCHASING RULES AND REGULATIONS

CENTRALIZATION OF PROCUREMENT AUTHORITY
All procurement for Catron County shall be performed by a central purchasing office designated by the Board of County Commissioners except as otherwise provided in the Procurement Code. The County shall identify their designated central purchasing office to the state purchasing agent and shall report their chief procurement officers to the state purchasing agent. On or before January 1 of each year, and every time a new Chief Procurement Officer is hired, each local public body shall provide to the state purchasing agent the name of the County's Chief Procurement Officer and information indentifying the County's central purchasing office. Beginning January 1, 2013, the County's Chief Procurement Officer must be certified by the State Purchasing Agent. After July 1, 2015, only a certified Chief Procurement Officer may make determinations, including determination regarding exemptions, pursuant to the procurement code; issue purchase orders and authorize small purchases pursuant to the procurement code; and approve procurement pursuant to the procurement code.

1.0 DEFINITIONS

1.1 GENERAL
Regulations regarding definitions are adopted to clarify particular terms defined in the New Mexico Procurement Code (Section 13-1-28 through 13-1-199 NMSA, 1978 – the “Procurement Code”) and governed by rule 1 of these regulations.

1.2 Definition: ARCHITECTURAL SERVICES
“Architectural services” means services related to the art and science of designing and building structures for human habitation or use and includes planning, providing preliminary studies, designs, specifications, working drawings and providing for general administration of construction contracts.
1.3 Definition: APPLICABLE PUBLIC OFFICIAL
“Applicable Public Official” means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

1.4 Definition: BRAND-NAME SPECIFICATION
“Brand-name specification” means a specification limited to describing an item by manufacturer’s name or catalogue number.

1.5 Definition: BRAND-NAME OR EQUAL SPECIFICATION
“Brand-name or equal specification” means a specification describing one or more items by manufacturer’s name or catalogue number to indicate the standard of quality, performance or other pertinent characteristics and providing for the substitution of equivalent items.

1.6 Definition: BUSINESS
“Business” means any corporation, partnership, individual, joint venture, association or any other private legal entity.

1.7 Definition: CAMPAIGN CONTRIBUTION
“Campaign Contribution” means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official’s behalf for the purpose of electing the official to either statewide or local office. “Campaign Contribution” includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individual who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

1.8 Definition: CATALOGUE PRICE
“Catalogue price” means the price of items of tangible personal property in the most current catalogue, price list, schedule or other form that:
- a. is regularly maintained by the manufacturer or vendor of an item;
- b. is either published or otherwise available for inspection by a customer.

1.9 Definition: CENTRAL PURCHASING OFFICE
“Central purchasing office” means that office or officer within the County responsible for the control of procurement of items of tangible personal property, services or construction. There is hereby created a Central Purchasing Office within the Finance Department of the County of Catron to be administered by the Procurement Officer who shall be the Procurement Director of the County or his/her designee. All procurement for local public bodies shall be performed by a central purchasing office designated by the Board of County Commissioners of Catron County body except as otherwise provided in the Procurement Code.
1.10 Definition: CHANGE ORDER
"Change order" means a written order signed and issued by the County Manager or his/her designee directing the contractor to make changes which the changes clause of the contract authorizes the County Manager to order with or without the consent of the contractor.

1.11 Definition: CHIEF PROCUREMENT OFFICER
"Chief Procurement Officer" means that person within the County's central purchasing office who is responsible for the control of procurement of items of tangible personal property, services or construction.

1.12 Definition: CONFIDENTIAL INFORMATION
"Confidential information" means any information, which is available to an employee because of the employee's status as an employee of a state agency or a local public body and which is not a matter of public knowledge or available to the public on request.

1.13 Definition: CONSTRUCTION
A. "Construction" means building, altering, repairing, installing or拆除 in the ordinary course of business any:
   1. road, highway, bridge, parking area or related project;
   2. building, stadium or other structure;
   3. airport, subway or similar facility;
   4. park, trail, athletic field, golf course or similar facility;
   5. dam, reservoir, canal, ditch or similar facility;
   6. sewage or water treatment facility, power generating plant, pump station, natural gas compressing station or similar facility;
   7. sewage, water, gas or other pipeline;
   8. transmission line;
   9. radio, television or other tower;
  10. water, oil or other storage tank;
  11. shaft, tunnel or other mining appurtenance;
  12. electrical wiring, plumbing or plumbing fixture, gas piping, gas appliances or water conditioners;
  13. air conditioning conduit, heating or other similar mechanical work; or
  14. similar work, structures or installations.

B. "Construction" shall also include:
   1. leveling or clearing land;
   2. excavating earth;
   3. drilling wells of any type, including seismographic shot holes or core drilling; and
   4. similar work, structures or installations.

1.14 Definition: CONSTRUCTION MANAGEMENT AND CONSTRUCTION MANAGER
A. “Construction management” means consulting services related to the process of management applied to a public works project for any duration from conception to completion of the project for the purpose of controlling time, cost and quality of the project.

B. “Construction manager” means a person who acts as an agent of the County for construction management, for whom the County shall assume all the risks and responsibilities.

1.15 **Definition:** CONTRACT
“Contract” means any agreement for the procurement of items of tangible personal property, services or construction.

1.16 **Definition:** CONTRACT MODIFICATION
“Contract modification” means any written alteration in the provisions of a contract accomplished by mutual action of the parties to the contract.

1.17 **Definition:** CONTRACTOR
“Contractor” means any business having a contract with a state agency or local public body.

1.18 **Definition:** COOPERATIVE PROCUREMENT
“Cooperative procurement” means procurement conducted by or on behalf of more than one state agency or local public body, or by a state agency or local public with an external procurement unit.

1.19 **Definition:** COST ANALYSIS
“Cost analysis” means factual information concerning the cost of labor, material, overhead and other cost elements which are expected to be incurred by a contractor or which have been actually incurred by a contractor in performing the contract.

1.20 **Definition:** COST DATA
“Cost data” means factual information concerning the cost of labor, material, overhead and other cost elements which are expected to be incurred by a contractor or which have been actually incurred by a contractor in performing the contract.

1.21 **Definition:** COST REIMBURSEMENT CONTRACT
“Cost reimbursement contract” means a contract which provides for a fee other than a fee based on a percentage of cost and under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms.

1.22 **Definition:** DATA
“Data” means recorded information regardless of form or characteristic.

1.23 **Definition:** DEFINITE QUANTITY CONTRACT
“Definite quantity contract” means a contract which requires the contractor to furnish a specified quantity of services, items of tangible personal property or construction at or within a specified time.
1.24 Definition: DESIGNEE
“Designee” means a representative of a person holding a superior position.

1.25 Definition: DETERMINATION
“Determination” means the written documentation of a decision of a procurement officer including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.

1.26 Definition: DIRECT OR INDIRECT PARTICIPATION
“Direct or indirect participation” means involvement through decision, approval, disapproval, recommendation, formulation of any part of a purchase request, influencing the content of any specification, investigation, auditing or the rendering of advice.

1.27 Definition: ELECTRONIC
“Electronic” includes electric, digital, magnetic, optical, electronic or similar medium.

1.28 Definition: EMPLOYEE
“Employee” means an individual receiving a salary, wages or per diem and mileage from the County whether elected or not any non-compensated individual performing personal services as an elected or appointed official or otherwise for the County.

1.29 Definition: ENGINEERING SERVICES
“Engineering services” means any service or creative work, the adequate performance of which requires engineering education, training and experience in the application of special knowledge of the mathematical, physical and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, engineering studies and the review of construction for the purpose of assuring substantial compliance with drawings and specifications; any of which embrace such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, chemical, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning, progress and completion of any engineering services. Such practices include the performance of architectural work incidental to the practice of engineering. “Engineering services” does not include responsibility for the superintendence of construction, site conditions, operations, equipment, personnel or the maintenance of safety in the work place.

1.30 Definition: EXTERNAL PROCUREMENT UNIT
“External procurement unit” means any procurement organization not located in this state which, if in this state, would qualify as a state agency or a local public body. An agency of the United States government is an external procurement unit.

1.31 Definition: FINANCIAL INTEREST
“Financial interest means:”
A. Holding a position in a business as officer, director, trustee or partner or holding any position in management; or
B. Ownership of more than five percent interest in a business.

1.32 Definition: FIRM FIXED PRICE CONTRACT
“Firm fixed price contract” means a contract which has a fixed total price or fixed unit price.

1.33 Definition: GARAGE LIABILITY INSURANCE
“Garage Liability Insurance” means liability insurance that covers any damage to vehicles or properties belonging to the County of Catron while in the possession of the vendor (mechanic).

1.34 Definition: GRATUITY
“Gratuity” means a payment, loan subscription, advance, deposit of money, service or anything of more than nominal value, received or promised, unless consideration of substantially equal or greater value is exchanges.

1.35 Definition: HEAVY ROAD EQUIPMENT
“Heavy road equipment” means any motor-driven vehicle or apparatus capable of use for earth moving or mixing components which as an aggregate value or price of over one thousand dollars ($1,000).

1.36 Definition: HIGHWAY RECONSTRUCTION
“Highway reconstruction” means the rebuilding, altering or repairing of any road, highway, bridge, parking area or related project. “Highway reconstruction” does not include routine maintenance.

1.37 Definition: IMMEDIATE FAMILY
“Immediate family” means a spouse, children, parents, brothers and sisters.

1.38 Definition: INDEFINITE QUANTITY CONTRACT
“Indefinite quantity contract” means a contract which requires the contractor to furnish an indeterminate quantity of specified services, items of tangible personal property or construction during a prescribed period of time at a definite unit price or at a specified discount from list or catalogue prices.

1.39 Definition: INVITATION FOR BIDS
“Invitation for bids” means all documents, including those attached or incorporated by reference, utilized for soliciting sealed bids.

1.40 Definition: LANDSCAPE ARCHITECTURAL SERVICES
“Landscape architectural services” means services including not limited to consultation, investigation, reconnaissance, research design, preparation of drawings and specifications and administration of contracts where the dominant purposes of such services are:
A. The preservation or enhancement of land uses and natural features.
B. The location and construction of functional approaches for structures, pathways or walkways; or
C. The design of trails, plantings and landscape irrigation. Excluded from the provisions of this section are the services of architects, engineers and surveyors as defined in the Procurement Code.

1.41 Definition: LOCAL PUBLIC WORKS PROJECT
“Local public works project” means a project of a local public body which uses architectural or engineering services requiring professional services costing twenty-five thousand dollars ($25,000) or more, or landscape architectural or surveying services requiring professional services costing five thousand dollars ($5,000) or more, excluding applicable state and local gross receipts taxes.

1.42 Definition: LOCAL PUBLIC BODY
“Local public body” means every political subdivision of the state and agencies, instrumentalities and institutions thereof, including two-year post-secondary educational institutions, school districts and local school boards and municipalities, except as exempted pursuant to the Procurement Code.

1.43 Definition: MULTI-TERM CONTRACT
“Multi-term contract” means a contract having a term longer than one year.

1.44 Definition: MULTIPLE SOURCE AWARD
“Multiple source award” means an award of an indefinite quantity contract for one or more similar services, items of tangible personal property or construction to more than one bidder of offeror.

1.45 Definition: NOTICE OF INVITATION FOR BIDS
“Notice of invitation for bids” means a document issued by a procurement officer which contains a brief description of the services, construction or items of tangible personal property to be procured, the location where copies of the invitation for bid may be obtained, the location where bids are to be received, the cost, if any for copies of plans and specifications, the date and place of the bid opening and such information as the procurement officer deems necessary.

1.46 Definition: PRICE AGREEMENT
“Price agreement” means a definite quantity contract or indefinite quantity contract which requires the contractor to furnish items of tangible personal property, services or construction to a state agency or a local public body which issues a purchase order, if the purchase order is within the quantity limitations of the contract, if any.

1.47 Definition: PENDENCY OF THE PROCUREMENT PROCESS
“Pendency of the procurement process” means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

1.48 Definition: PERSON
“Person” means any corporation, partnership, individual, joint venture, association or any other private legal entity.
1.49 **Definition: PRICE ANALYSIS**
“Price analysis” means the evaluation of pricing data without analysis of the separate cost components and profits.

1.50 **Definition: PRICING DATA**
“Pricing data” means factual information concerning prices for items identical to or substantially similar to those being procured.

1.51 **Definition: PROCUREMENT**
“Procurement” means:
A. Purchasing, renting, leasing, lease purchasing or otherwise acquiring items of tangible personal property, services or construction; and
B. All procurement functions, including but not limited to preparation of specifications, solicitation of sources, qualification or disqualification of sources, preparation and award of contract and contract administration.

1.52 **Definition: PROCUREMENT OFFICER**
“Procurement officer” means any person or a designee authorized by a state agency or a local public body to enter into or administer contracts and make written determinations with respect thereto.

1.53 **Definition: PROFESSIONAL SERVICES**
“Professional services” means the services of architects, archeologists, engineers, surveyors, landscape architects, medical arts practitioners, scientists, management and systems analysts, certified public accountants, registered public accountants, lawyers, psychologists, planners, researchers, construction managers and other persons or businesses providing similar professional services, which may be designated as such by a determination issued by the state purchasing agent or a central purchasing office.

1.54 **Definition: PROSPECTIVE CONTRACTOR**
“Prospective contractor” means a person who is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person qualifies for a sole source or small purchase contract.

1.55 **Definition: PURCHASE ORDER**
“Purchase order” means the documents issued by the state purchasing agent or a central purchasing office that directs a contractor to deliver items of tangible personal property, services or construction.

1.56 **Definition: PURCHASE REQUEST**
“Purchase request” means the document by which a using agency requests that a contract be obtained for a specified service, construction or item of tangible personal property and may include but is not limited to the technical description of the requested items, delivery schedule, transportation requirements suggested sources of supply and supporting information.
1.57 **Definition: QUALIFIED PRODUCTS LIST**
“Qualified products list” means a list of items of tangible personal property described by model or catalogue number which, prior to the solicitation of competitive sealed bids or competitive sealed proposals, are items the state purchasing agent or a central purchasing office has determined will meet the applicable specifications.

1.58 **Definition: REGULATION**
“Regulation” means any rule, order or statements of policy, including amendments thereto and repeals thereof, issued by a state agency or a local public body to affect persons not members or employees of the issuer.

1.59 **Definition: REQUEST FOR PROPOSALS**
“Request for proposals” means all documents, including those attached or incorporated by reference, used for soliciting proposals.

1.60 **Definition: RESPONSIBLE BIDDER**
"Responsible bidder" means a bidder who submits a responsive bid and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services, construction or items of tangible personal property described in the invitation for bids.

1.61 **Definition: RESPONSIBLE OFFEROR**
"Responsible offeror" means an offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services or items of tangible personal property described in the proposal.

1.62 **Definition: RESPONSIVE BID**
“Responsive bid” means a bid which conforms in all material respects to the requirements set forth in the invitation for bids. Material respects of a bid include but are not limited to price, quality, quantity or delivery requirements.

1.63 **Definition: RESPONSIVE OFFER**
“Responsive offer” means an offer which conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for a proposal include, but are not limited to, price, quality, quantity or delivery requirements.

1.64 **Definition: REPRESENTATIVE OF A PROSPECTIVE CONTRACTOR**
“Representative of a prospective contractor” means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

1.65 **Definition: SELECTION COMMITTEE**
“Selection Committee” A committee appointed by the County Manager or his/her designee to evaluate and select all offerors to a request for proposals.
1.66 Definition: SERVICES
“Services” means the furnishing of labor, time or effort by a contractor not involving the delivery of a specific end product other than reports and other materials which are merely incidental to the required performance. “Services” includes the furnishing of insurance but does not include construction or the services of employees of a state agency or a local public body.

1.67 Definition: SMALL BUSINESS
“Small business” means a business, not a subsidiary or division of another business, having an average annual volume for the preceding three fiscal years which does not exceed one million five hundred thousand dollars ($1,500,000).

1.68 Definition: SPECIFICATION
“Specification” means a description of the physical or functional characteristics or of the nature of items of tangible personal property, services or construction. “Specification” may include a description of any requirement for inspecting or testing, or for preparing items of tangible personal property, services or construction for delivery.

1.69 Definition: SURVEYING SERVICES
“Surveying services” means any service or work, the substantial performance of which involves the application of the principles of mathematics and the related physical and applied sciences for:
A. The measuring and locating of lines, angles, elevations, natural and man-made features in the air, on the surface of the earth, within underground workings and on the beds or bodies of water for the purpose of defining location, areas and volume;
B. The monumenting of property boundaries and the platting and layout of lands and subdivisions thereof;
C. The application of photogram metric methods used to derive topographic and other data;
D. The establishment of horizontal and vertical controls for surveys for design, topographic surveys including photogram metric methods, construction surveys for engineering and architectural public works; and
E. The preparation and perpetuation of maps, records, plats, field notes and property descriptions.

1.70 Definition: TANGIBLE PERSONAL PROPERTY
“Tangible personal property” means tangible property other than real property having a physical existence, including but not limited to supplies, equipment, materials and printed materials.

1.71 Definition: USING AGENCY
“Using agency” means any state agency or local public body requiring services, construction or items of tangible personal property.

All contracts and purchase requisitions of vehicles and heavy equipment must be approved by the Board of County Commissioners of the County of Catron before any purchase order is issued.
2.0 PURCHASE REQUESTS

2.1 SPECIFICATION FOR PURCHASE REQUISITIONS

A) All departments shall requisition materials or services except as otherwise provided by these regulations by use of Requisition for Purchase Form, (attached see Appendix C).

B) Department Directors, who obtain services, construction, or items of tangible personal property through an Emergency Procurement, shall prepare a letter of Determination defining the emergency situation and shall complete a Requisition Form no later than five (5) days after such procurement with the Central Purchasing Office/Finance Director. Pre-planned and/or pre-approved.

C) All using agency requests for procurement shall contain:
   i) A statement of need and the specifications of the item(s), construction or service(s) needed; and
   ii) A statement of the quantity needed and a general statement of quality.

D) The central purchasing office may consolidate procurements and may contract for items of tangible personal property or services at a firm price at which the items or services needed during the year or portion of a year shall be purchased.

E) A brand name may be used when the brand name is the clearest and best understood manner of describing the item. When a brand name is used, it must be followed by the words "or equal," except for those instances where the materials or services are designed to match other in use on a particular public improvement, either completed or in the course of completion, or where a unique or novel product application is required to be used in the public interest as per Section 22.

F) The Central Purchasing Office shall notify the department who filed the requisition, if any changes are needed of the department’s requisition, relative to specifications, price, contractual conditions, quantity or delivery costs, proper account use, and prior to the issuance of a purchase order.

G) A purchase order shall be a statement of intent to purchase and shall clearly state the quantity and quality of items to be purchased. The Central Purchasing Office may consolidate purchases and may contract for items at a firm price at which the materials or services needed during the year, or portion of a year, shall be purchased.

H) Purchase orders shall only be issued by the Finance Department after receipt of a properly executed requisition for purchase from the department involved in the purchase.

I) Procurement shall not be artificially divided so as to constitute a small purchase under these regulations.

J) All contracts and solicitations shall contain reference to the criminal laws prohibiting bribes, gratuities and kickbacks.

2.2 SMALL PURCHASES

A) A central purchasing office shall procure services, (except for professional services, see section 2.3) construction or items of tangible personal property having a value not exceeding sixty thousand dollars ($60,000) in accordance with these regulations:
i) **$499.99 or less.** Purchases shall be made according to the best obtainable price from a vendor or catalogue. Note: purchases may be from petty cash, not to exceed $50.00, in accordance with petty cash purchases as established by written procedures.

ii) **$500 to $1,499.99.** Purchases shall be made according to the best obtainable price provided at least 2 businesses shall be solicited using bona fide phone or written quotations from a vendor or catalogue.

iii) **$1,500 to $9,999.99.** Purchases shall be made according to the best obtainable price provided at least 3 bona fide phone or written quotations from different vendors and catalogues have been obtained for such purchases. These quotations are required to be recorded on a procurement quotation form and made a part of the procurement file.

iv) **$10,000 to $60,000.00.** Purchases shall be made according to the best obtainable price provided at least 3 bona fide written quotations are obtained from vendors or catalogues. The Purchasing Agent may, in unique circumstances, waive request for quotation procedures, and require 3 bona fide phone quotations.

v) **Above $60,000.00.** All purchases exceeding $60,000 require formal bid procedures as set forth in this policy.

B) If any responsible bid is the same as the lowest bid, the Central Purchasing Office shall notify the Department Director involved in the purchase, who shall be given the option of selecting the bidder to whom the award will be given.

C) Without regard to the bid requirements of these regulations, the County of Catron may purchase materials at prices equal to or less than the prices paid for material meeting the same specifications or standards purchased under State Purchasing Agent or Procurement Officer if the following conditions are met:

i) Prices must be from a current contract entered into by the State Purchasing Agent.

ii) The quantity purchased shall not exceed the quantity which may be purchased under the applicable State Purchasing Agent contract.

iii) The material shall be purchased at the best available price.

iv) The Requisition for Purchase shall adequately identify the State Purchasing Agent contract relied upon, recording: contract number, item(s) number, contract expiration date and copy of contract attached.

v) The Central Purchasing Office shall retain for public inspection and for the use of auditors a copy of each state purchasing agent contract relied upon to make purchases without seeking competitive bids.

vi) Purchases shall not be made from other than state contract vendors if the contract so provides and if the state contract has been arrived at by utilization of the requirements of other than State Agencies under the supervision of the State Purchasing Agent.

2.3 PROFESSIONAL SERVICES
With regard to contracts for technical and professional services, including but not limited to contracts for legal services, appraisal services, engineering consulting, or other consulting services, when the contract is for less than $60,000.00, a determination shall be made by the department involved in the procurement stating the service is required, the criteria used for selection, the persons, partnerships, corporations or associations considered and the basis for the final selection.

3.0 EXEMPTIONS FROM THE PROCUREMENT CODE
A) The provisions of the Procurement Code shall not apply to:
B) Procurement of items of tangible personal property or services by the County from a state agency, a local public body or external procurement unit except as otherwise provided in Section 13-1-135 through 13-1-137 NMSA 1978.

C) Printing and duplicating contracts involving materials that are required to be filed in connection with proceedings before administrative agencies, or state or federal Courts.

D) Purchases of publicly provided or publicly regulated gas, electricity, water, sewer and refuse collection services.

E) Purchases of books and periodicals from the publishers or copyright holders thereof;

F) Travel or shipping by common carrier or by private conveyance or to meals and lodging.

G) Purchase of livestock at auction rings or the procurement of animals to be used for research and experimentation or exhibit.

H) Contracts with businesses for public school transportation services.

I) Minor purchases not exceeding five thousand dollars ($5,000) consisting of magazine subscriptions, conference registration fees and other similar purchases where prepayments are required.

J) The issuance, sale and delivery of public securities pursuant to the applicable authorizing statute, with the exception of bond attorneys and general financial consultants.

K) Contracts entered into by a local public body with a private independent contractor for the operation, or provision and operation, of a jail pursuant to Sections 33-3-26 and 33-3-27 NMSA 1978.

L) Contracts for maintenance of grounds and facilities at highway rests stops and other employment opportunities, excluding those intended for the direct care and support of persons with handicaps, entered into state agencies with private, nonprofit, independent contractors who provide services to persons with handicaps.

M) Contracts and expenditures for services or items for tangible personal property to be paid or compensated by money or other property transferred to New Mexico law enforcement agencies by the United States department of justice drug enforcement administration.


O) Contracts with professional entertainers.

P) Contracts and expenditures for litigation expenses in connection with proceedings before administrative agencies or state or federal courts, including experts, mediators, court reporters, process servers and witness fees, but not including attorney contracts.

Q) Contracts for service relating to the design, engineering, financing, construction and acquisition of public improvements undertaken in improvement districts pursuant to Subsection L of Section 3-33-14.1 NMSA 1978 and in county improvement districts pursuant to Subsection L of Section 4-55A-12.1 NMSA 1978.

R) Works of art for museums or for display in public buildings or places.

S) Purchases of advertising in all media, including radio, television, print and electronic.

T) Procurement of services from community rehabilitation programs or qualified individuals pursuant to the State Use Act.
U) Contracts entered into by a local public body with a person, firm, organization, corporation or association or a state educational institution named in Article 12, Section 11 of the constitution of New Mexico for the operation and maintenance of hospital pursuant to Chapter 3, Article 44 NMSA 1978, lease or operation of a county hospital pursuant to the Hospital Funding Act or operation and maintenance of a hospital pursuant to the Special Hospital District Act;
V) Purchases of products or services for eligible persons with disabilities pursuant to the federal Rehabilitation Act of 1973; and
W) procurements exempt from the Procurement Code as otherwise provided by law.

4.0 SOLE SOURCE
A contract may be awarded without competitive sealed bids or competitive sealed proposals regardless of the estimated cost when the central purchasing office determines, in writing, that (1) there is only one source for the required service, construction or item of tangible personal property; (2) the service, construction or item of tangible personal property is unique and this uniqueness is substantially related to the intended purpose of the contract; and (3) other similar services, construction or items of tangible personal property cannot meet the intended purpose of the contract. The central purchasing office shall use due diligence in determining the basis for the sole source procurement, including reviewing available sources and consulting the using agency, and shall include its written determination in the procurement file. The central purchasing office shall conduct negotiations, as appropriate, as to price, delivery and quantity in order to obtain the price most advantageous to the state agency or a local public body. The state purchasing agent or a central purchasing office shall not circumvent this section by narrowly drafting specifications so that only one predetermined source would satisfy those specifications. A notice of intent to award a sole source contract must be posted on the County’s website at least 30 days before awarding sole source contract, which notice must identify at a minimum the parties to the contract, the nature and quantity of the service, construction or property being contracted for, and the contract amount. A qualified potential contractor who was not awarded the sole source contract may submit a written protest to the central purchasing office within 15 days after the notice is posted.

5.0 EMERGENCY PROCUREMENTS
The central purchasing office may make emergency procurements when there exists a threat to public health, welfare, safety or property requiring procurement under emergency conditions; provided that emergency procurements shall be made with competition as is practicable under the circumstances. An emergency condition is a situation that creates a threat to public health, welfare or safety such as may arise by reason of floods, fires, epidemics, riots, acts of terrorism, equipment failures or similar events and includes the planning and preparing for an emergency response. The existence of the emergency condition creates an immediate and serious need for services, construction or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten: (1) the functioning of government; (2) the preservation or protection of property; or (3) the health or safety of any person. Emergency procurements shall not include the purchase or
lease purchase of heavy road equipment. The central purchasing office shall use due diligence in determining the basis for the emergency procurement and for the selection of the particular contractor. The determination shall be in writing and included in the procurement file. Money expended for planning and preparing for an emergency response shall be accounted for and reported to the legislative finance committee and the department of finance and administration within sixty days after the end of each fiscal year. A central purchasing office may not designate or authorize others to make emergency procurements.

5.1 SOLE SOURCE AND EMERGENCY PROCUREMENTS: CONTENT AND SUBMISSION OR RECORD; PUBLICATION OF AWARD TO COUNTY WEBSITE AND SUNSHINE PORTAL

The central purchasing office shall maintain, for a minimum of three years, records of sole source and emergency procurements. The record of each such procurement shall be public record and shall contain:
A) The contractor’s name and address;
B) The amount and term of the contract;
C) A listing of the services, construction or items of tangible personal property procured under the contract;
D) Whether the contract was a sole source or emergency procurement contract; and
E) The justification for the procurement method.

Prior to award of a sole source procurement contract, the central purchasing office shall provide (1) the contractor’s name and address, (2) the amount and term of the contract, (3) a listing of the services, construction or items of tangible personal property procured under the contract, (4) whether the contract was a sole source or emergency procurement contract, and (5) The justification for the procurement method, to the department of information technology for posting on the sunshine portal; and forward the same information to the legislative finance committee. Prior to the award of a sole source procurement contract, the central purchasing office shall post the above-detailed information on the County’s website. Within three business days of awarding an emergency procurement contract, the central purchasing office shall post the information described above on the County’s website.

6.0 GARAGE LIABILITY REQUIREMENT
In the case of vehicle repair (mechanics), vendor shall provide garage liability insurance.

7.0 COMPETITIVE SEALED BIDS
A) All procurement shall be achieved by competitive sealed bid pursuant to Sections 7.1 through 7.12 of the Procurement Code, except procurement achieved pursuant to the following sections of the Procurement Code (13-1-28 to 13-1-117 and 13-1-118 to 13-1-119);
B) 199 NMSA 1978);
C) Section 8.0 (8.1 through 8.13) competitive sealed proposals;
D) Section 2.2, small purchases;
E) Section 4.0, sole source procurement;
F) Section 5.0, emergency procurements;
G) Section 14.0, existing contracts; and
H) Section 28.0, purchases from antipoverty program businesses.

7.1 COMPETITIVE SEALED BIDS: REQUIREMENTS
A) The Request for Bid (RFB) is used to initiate a competitive sealed bid procurement.
   The
B) RFB shall include the following:
C) The specifications for the services, construction or items of tangible personal property
   to be procured.
D) All contractual terms and conditions applicable to the procurement, including:
   i) Affidavit
   ii) Campaign Contribution Disclosure
   iii) Bid bond, if applicable
E) The term of the contract and conditions of renewal or extension, if any.
F) Instructions and information to bidders, including the location where bids are to be
   received and the date, time and place of the bid opening.
G) A notice that the RFB may be cancelled and that any and all bids may be rejected in
   whole or in part when it is in the best interest of the County of Catron.
H) Notice published in at least one newspaper ten (10) days prior to bid opening.
I) A notice that reads substantially as follows:

The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil
and misdemeanor criminal penalties for its violation. In addition, the New Mexico
criminal statutes impose felony penalties for bribes, gratuities, and kick-backs.

7.2 COMPETITIVE SEALED BIDS: INVITATION FOR BIDS
An invitation for bids shall be issued and shall include the specifications for the services,
construction or items of tangible personal property to be procured, all contractual terms
and conditions applicable to the procurement, the location where bids are to be received
and the date, time and place of the bid opening.

7.3 SIGNATURES FOR RFB
Review and signatures are required from the County Procurement Officer and the County
Manager. The final signed RFB/RFP is complete only when a signature and a bid number
are issued by the Purchasing Officer. The RFB/RFP is then scheduled for an opening date
and recorded in the bid list. The completed RFB/RFP original is then recorded with the
County Procurement Officer. A copy of the signed original is submitted to the Purchasing
Department.

7.4 CAMPAIGN CONTRIBUTION DISCLOSURE
Pursuant to NMSA 1978, Section 13-1-191.1 (2007), any prospective contractor seeking
to enter into a contract with any state agency or local public body must file the form
provided in Appendix “A” with the state agency or local public body.

7.5 AMENDMENTS TO INVITATION TO BID
A) The Central Purchasing Office and/or the Department involved in the purchase may
   amend the invitation for bids in compliance with the Procurement Code and County
   regulations to:
B) Make any changes in the invitation for bids such as changes in quantity, purchase
descriptions, specifications, delivery schedules, opening dates.
C) Correct defects or ambiguities.
D) Furnish to other bidders information given to one bidder if such information will
assist the other bidders in submitting a bid or if the lack of such information would
prejudice the other bidders.
E) The amendment shall be mailed first class to all bidders who have supplied their
current mailing address, pursuant to the bidder, not less than seven (7) days prior to
the scheduled bid opening.

7.6 COMPETITIVE SEALED BIDS: PUBLIC NOTICE
A) An invitation for bids or a notice thereof shall be published not less than ten calendar
days prior to the date set forth for the opening of bids. The invitation or notice shall
be published at least once in a newspaper of general circulation in the area at least ten
(10) days prior to bid opening. These requirements of publication are in addition to
any other procedures that may be adopted by the Procurement Officer to notify
prospective bidders that bids will be received, including publication in a trade journal,
if available.
B) The Procurement Officer shall send copies of the notice or invitation for bids
involving the expenditure of more than sixty thousand dollars ($60,000) to those
businesses that have signified in writing an interest in submitting bids for particular
categories of items of tangible personal property, construction and services and that
have paid any required fees. The Procurement Officer may set different registration
fees for different categories of services, construction or items of tangible personal
property, but such fees shall be related to the actual, direct cost of furnishing copies
of the notice or invitation for bids to the prospective bidders. The fees shall be used
exclusively for the purpose of furnishing copies of the notice or invitation for bids of
proposed procurements to prospective bidders. The fees shall be used exclusively for
the purpose of furnishing copies of the notice or invitation for bids of proposed
procurements to prospective bidders.
C) The Procurement Officer may satisfy the requirement of sending copies of a notice or
invitation for bids by distributing the documents to prospective bidders through
electronic media. The central purchasing office will not accept RFB/RFP by
electronic media.
D) As used in this section, “prospective bidders” includes persons considering
submission of a bid as a general contractor for the construction contract and persons
who may submit bids to a general contractor for work to be subcontracted pursuant to
the construction contract. The Procurement Officer shall make copies of invitations
for bids for construction contracts available to prospective bidders. The Procurement
Officer may require prospective bidders who have requested documents for bid on a
construction contract to pay a deposit for a copy of the documents for bid. The
deposit shall equal the full cost of reproduction and delivery of the documents for bid.
The deposit, less delivery charges, shall be refunded if the documents for bid are
returned in usable condition within the time limits specified in the documents for bid,
which time limits shall be no less than ten calendar days from the date of the bid
opening. All forfeited deposits shall be credited to the funds of the applicable central purchasing office.

7.7 COMPETITIVE SEALED BIDS: RECEIPT AND ACCEPTANCE OF BIDS
A) Bids shall be unconditionally accepted for consideration for award without alteration or correction, except as authorized in the Procurement Code (13-1-28 NMSA 1978). In addition to the requirement for the prime contractor and subcontractors to be registered as provided in Section 13-4-13.1 NMSA 1978, bids shall be evaluated based on the requirements set forth in the invitation for bids, which requirements may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria such as discounts, transportation costs and total or lifecycle costs that will affect the bid price shall be objectively measurable, which shall be defined by rule. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluations that are not set forth in the invitation for bids. A bid submitted by a prime contractor that was not registered as required by Section 13-4-13.1 NMSA 1978 shall not be considered for award. A bid submitted by a registered prime contractor that includes any subcontractor that is not registered in accordance with that section may be considered for award following substitution of a registered subcontractor for any unregistered subcontractor in accordance with Section 13-4-36 NMSA 1978.

B) If the lowest responsible bid has otherwise qualified, and if there is no change in the original terms and conditions, the lowest bidder may negotiate with the purchaser for a lower total bid in order to avoid rejection of all bids for the reason that the lowest bid was up to 10 percent higher than budgeted project funds. Such negotiation shall not be allowed if the lowest bid was more than ten percent over budget project funds.

7.8 COMPETITIVE SEALED BIDS: CORRECTION OR WITHDRAWAL OF BIDS
A) A bid containing a mistake discovered before bid opening may be modified or withdrawn by a bidder prior to the time set for bid opening by delivering written or telegraphic notice to the location designated in the invitation for bids as the place where bids are to be received. After bid opening, no modifications in bid prices or other provisions of bids shall be permitted. A low bidder alleging a material mistake of fact which makes his bid non-responsive may be permitted to withdraw its bid if: The mistake is clearly evident on the face of the bid documents; or The bidder submits evidence which clearly and convincingly demonstrates that a mistake was made.

B) Any decision by a procurement officer to permit or deny the withdrawal of a bid on the basis of a mistake contained therein shall be supported by a determination setting forth the grounds for the decision.

7.9 COMPETITIVE SEALED BIDS: BID OPENING
Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid and each bid item, if appropriate, and such other relevant information as may be specified by the state purchasing agent or a central purchasing office, together with the name of each bidder, shall be recorded, and the record and each bid shall be open to public inspection.