



Gilpin County

PROCUREMENT AND PURCHASING POLICY

Including CONTRACTING

Adopted October 18, 2016

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OBJECTIVES

Procure the necessary quality and quantity of goods and services in an efficient, timely and cost-effective manner, while maintaining the controls necessary for a public institution.

Encourage the most open, competitive purchasing process practical for the acquisition of goods and services with the objective of obtaining the maximum possible value while maintaining fair and equitable treatment of vendors.

Ensure that the maximum value of an acquisition is obtained by doing a cost analysis to determine the total cost of performing the intended function over the lifetime of the task. This includes, but is not limited to, acquisition cost, intangible costs, installation, disposal value, disposal cost, maintenance cost, quality of performance and environmental impact.

SCOPE

This document applies to the procurement, and purchase of goods and services for Gilpin County operations, whether capital items or not, except purchases of real property (or real property interests of any nature). All real property purchases should go through the County Manager to the Board of County Commissioners, excluding real or personal property under the care custody, control or supervision of the Board of Trustees of the Gilpin County Library per C.R.S. 24-90-109 (1).

Procurement deals with the sourcing activities, negotiation and strategic selection of goods and services that are usually of importance to an organization.

Purchasing is the process of how goods and services are ordered. Purchasing can usually be described as the transactional function of procurement for goods and services.

In emergency or exigent circumstances (that do not involve a potential declared disaster), the County Manager or Board Chair may waive some or all of the requirements of this policy, to the extent they deem it warranted by the circumstances. If the policy is in any way waived, the County Manager or Board Chair shall report having done so, the circumstances, the rationale, and the resulting purchase(s) / contract(s) at the next Board of County Commissioners meeting, and the report will be included in full in the written minutes.

GENERAL REQUIREMENTS

Seek to obtain the highest quality goods or services at the best possible prices, available at the right times and in the right quantities, from a responsible vendor.

Seek to acquire goods and services only from qualified suppliers by using the most responsible vendor whose goods or service represents the greatest overall value to Gilpin County. A responsible vendor has integrity, complies with public policy, has a good record of past performance, and has financial and technical resources.

It is prohibited to divide a purchase into phases or parts for the purpose of avoiding application of more stringent approvals/rules. It is however, acceptable that purchases be made in multiple phases or lots for the purpose of serving the business interests of Gilpin County or to comply with socioeconomic contracting requirements.

Make reasonable effort to buy locally unless factors of price, quality, availability or performance make local buying inappropriate. Purchasing "locally" refers to buying from suppliers whose businesses are located in Gilpin County.

Take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. See steps under Socioeconomic Contracting under the Contracting section of this policy.

Do not purchase goods or services from vendors listed on www.sam.gov with a suspended or debarred status unless (a) no federal-source money is being used for the purchase, (b) the purchase is not for a project which is in any part utilizing federal-source money, and (c) the purchase is approved in writing, in advance, by the County Manager. Suspended or debarred vendors are published as ineligible on the System for Award Management (SAM) www.sam.gov, a GSA-administered website.

All purchases must be in accordance with the current year's approved budget.

Only the County Manager or the Department Director / Elected Official for a department / office is authorized to complete and sign applications for credit with a vendor. A copy of every application for credit and the reason for the application must be promptly submitted to the County Manager, who shall endorse it to signify his approval and then send it to the Finance Department.

When a purchasing action involves the expenditure of Federal, State and / or Grant funds, in addition to complying with these policies, the purchasing shall also comply with all applicable federal, state, and grant laws, rules and regulations. If there is a conflict between these policies and any federal, state and grant laws, rules and regulations, the more restrictive shall govern.

If County employees do not follow this policy, they may be subject to disciplinary action.

PURCHASING METHODS

Purchases may be accomplished through Direct Invoice Payment, Petty Cash, Credit Cards, Employee Reimbursements, ACH and Wire Transfers.

- Direct Invoice Payment - the preferred method of payment.
- Petty Cash - for purchases under \$50.00 and should be used only when direct invoice payment is untimely or impractical.
- Gilpin County Credit Cards - purchases within the available credit limit. The Gilpin County credit card should be used only when direct invoice payment is untimely or impractical. Impractical could be considered a one-time purchase where the vendor will never be used again.
- Employee Reimbursements - reimbursements for business mileage, meals, etc. using the Gilpin County Expense Reimbursement Form. It is discouraged to use personal credit cards for business purchases because Gilpin County cannot be certain every employee will use their reimbursement toward their personal credit card balance.
- ACH and Wire Transfers - possible only after consulting with the Gilpin County Treasurer and Gilpin County Finance Director.

DOCUMENTATION OF PURCHASES

For small and informal purchases of goods and services under \$50,000, documents memorializing the purchase could be a formal contract or agreement approved in advance by the County Attorney, a memorandum, the Gilpin County-approved purchase order signed by the vendor, an invoice, or (at a minimum) a receipt. The document should at least describe the product or service, the price, delivery or time of performance, and when the price is to be (or was) paid. Attach document(s) to vouchers for payment.

For formal purchases \$50,000 or more, documents memorializing the purchase are recommended to be a formal contract, which could include a variety of types of forms, the distinguishing characteristic of which is that all of them are signed by both parties and approved in advance by the County Attorney and by the Board of County Commissioners by motion or resolution. These must be given to Gilpin County Administration for County records and then forwarded to the Gilpin County Finance Director. Attach document(s) to vouchers for payment.

PURCHASE ORDERS

Departments / Offices must retain Gilpin County Purchase Orders for six (6) years after the contract term ends.

SMALL PURCHASES (less than \$5,000)

This is used to procure non-repetitive “off the shelf” type goods and services.

The purchaser shall use reasonable judgment in selecting the vendor to ensure Gilpin County is receiving maximum value. If the purchaser is not familiar with reasonable pricing for the goods or services, they shall check pricing with more than one supplier. The purchaser determines which vendor has the most reasonable price and procures the goods or services directly from the supplier.

INFORMAL PURCHASES (\$5,000 - \$49,999.99)

This is used to procure non-repetitive, non-complex goods and services.

Identify potential vendors and avenues for contacting potential vendors so requests for bids and proposals can be disseminated effectively.

“Informal” methods are the most commonly used. Seek out suppliers of goods or services and obtain prices to purchase what is needed in a responsible way, usually at the least expensive but sometimes to achieve other Gilpin County business objectives (for example, to meet a time need). Several ways of soliciting proposals or quotations are to telephone, e-mail identified vendors, and conduct internet research.

Use the Evidence of Proper Procurement Record of getting bids / quotes form for tracking. Departments / Offices must retain form(s) for six (6) years after expiration or termination of a contract and for three (3) years for rejected or unsolicited bids.

For purchases expected to be over \$10,000, the solicitation must be communicated in writing. It also must be posted on the Gilpin County website for at least ten (10) business days before the purchase decision is to be made. Possible exceptions: critical repair of Public Works & Facilities equipment that is needed for immediate use, repair of a building that must be kept secure.

The objective is to obtain at least three (3) written responses, absent a reason why that would be impractical (for example, three vendors cannot be found). No-bid responses should also be received in writing. If there are not three responses, a waiver to proceed may be granted by the County Manager. The justified request and approval for a waiver must be in writing and follow the noncompetitive proposal section below.

Purchases from published catalogs and vendor websites do not require a written, or any, solicitation of a proposal or quotation. There should be multiple prices sought for equivalent items. It would also be appropriate to contact the vendor to see if special pricing is available.

FORMAL PURCHASES (\$50,000 or more)

The County Manager or Board of County Commissioners may decide in specific instances to use a formal procedure, when appropriate, or when the law requires, even when a purchase is expected to be \$50,000 or less.

Identify potential vendors and avenues for contacting potential vendors so requests for bids and proposals can be disseminated effectively.

“Formal” methods involve preparation and dissemination to likely vendors and the public a document describing a project or a Gilpin County need in detail and also describing the process and criteria for selecting a vendor. These solicitation documents (Request for Bid / Request for Proposal / Request for Qualifications) seek a formal, written response from vendors.

Use the Evidence of Proper Procurement Record of getting bids/quotes form for tracking. Departments / Offices must retain form(s) for six (6) years after expiration or termination of a contract and for three (3) years for rejected or unsolicited bids.

Solicitation must be in writing. It also must be posted on the Gilpin County website for at least ten (10) calendar days, before the response is due. Exception: Public Works may use an informal procedure for the purchase of bulk materials at least annually at the discretion of the Public Works & Facilities Director.

Request for Bid / Request for Proposal / Request for Qualifications must be approved by the County Manager and on a case by case basis by the County Attorney.

The objective is to obtain at least three (3) written responses, absent a reason why that would be impractical (for example, there are not three qualified vendors). No-bid responses should also be received in writing. If there are not three responses, a waiver to proceed may be granted by the County Manager. The justified request and approval for a waiver must be in writing and follow the noncompetitive proposal section below.

The Board of County Commissioners shall award / approve any bid or proposal in excess of \$50,000 and then may delegate authority for executing a contract to implement its award.

Ordinarily, a bid will be awarded to the person submitting the lowest responsible bid. A recommendation to award to a vendor submitting other than the lowest dollar bid must be justified with facts, in writing.

NONCOMPETITIVE PROPOSALS

Procurement from solicitation of a proposal from only one source may be used only when one or more of the following apply:

- One Source - Item is available only from a single source
- Exigency / Emergency - An exigency or emergency will not permit a delay resulting from competitive solicitation
- Awarding agency approval
- Inadequate Competition - After the solicitation of a number of sources, competition is determined inadequate

EMERGENCY PURCHASES

An emergency purchase (that does not involve a potential declared disaster) involves a condition, which creates an immediate threat to health, safety, or improved property, which would be adversely affected if normal procurement procedures were followed. The County Manager or his / her designee shall have the power to authorize other Gilpin County employees to secure the necessary items in the open market without competition regardless of the amount of the expenditure until the immediate threat phase has passed.

The Board of County Commissioners and County Manager authorize the County Sheriff or, in the County Sheriff's absence, the County Undersheriff to make an emergency purchase(s) of ≤ \$150,000 per event of fire, weather or other emergency, even if the event is a potential declared disaster. This authorization applies to only one event per calendar year. Subsequent authorization may be given after a full written report of each event is accepted by the Board of County Commissioners.

In no event shall the contract price exceed commercially reasonable prices.

A full written report of the circumstances of each emergency purchase shall be made to the Board of County Commissioners. The report shall be received by the Board of County Commissioners at a regular meeting and such report shall be open to public inspection.

CONTRACTING

The contracting information listed in this document is not all-inclusive, always confer with the County Manager and County Attorney about contracts.

AUTHORITY LIMITS - If a Grant-type Contract, the below limits are the County match or contribution:

- Department Directors / Elected Officials: ≤ \$50,000 provided sufficient funds are available in the budget for the specific item(s).
- County Manager: >\$50,000 and ≤ \$100,000.
- Board of County Commissioners: > \$100,000 by motion or resolution.
- County Sheriff or, in the County Sheriff's absence, the County Undersheriff: ≤ \$150,000 per event of fire, weather or other emergency. This authorization applies to only one event per calendar year. Subsequent authorization may be given after a full written report of each event is accepted by the Board of County Commissioners.

BONDING REQUIREMENTS - For critical or complex actions, or when required by law.

Examples of Bonds:

- **Bid Bonds** - The bid bond requirement may be satisfied by receipt of a certified bank check or a bid bond. The bid security is submitted as a guarantee that the bid will be maintained in full force and in effect for a period of thirty (30) calendar days after the opening of bids or as specified in the solicitation documents. If a vendor fails to provide a bid security with its bid, the bid shall be deemed non-responsive. The bid bond should be in an amount equal to at least 10% of the vendor's bid price.
- **Performance Bonds** - A performance bond, satisfactory to Gilpin County, may be required for all contracts awarded in excess of \$50,000, and is required by law for construction contracts over that amount. The performance bond shall be in an amount equal to 100% of the price specified in the contract, or any other higher amount determined by the County to be in its best interest.
- **Payment Bonds** - a payment bond for the protection of all persons supplying labor and material to the contractor or its subcontractors may be required for all contracts awarded in excess of \$50,000, and is required by law for construction contracts over that amount. The payment bond shall be in an amount equal to at least 100% of the price specified in the contract or any other higher amount determined by the County to be in its best interest.

CONFLICT OF INTEREST - No Gilpin County agent, employee, or officer may participate in the selection, award or administration of a contract if he or she has a real or apparent conflict of interest.

CONTRACTOR OVERSIGHT - Gilpin County must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of the contracts or purchase orders.

DURATION - No contract for supplies, services or construction, including all renewals, shall be made by Gilpin County for a period longer than five (5) years, unless authorized by resolution.

FIRST YEAR - For all annual contracts \$20,000 or more, the first year shall be prorated in order to get the contract on a calendar year cycle.

GRATUITIES AND KICKBACKS - Gilpin County agents, employees and officers must neither solicit nor accept gratuities, favors, or anything else of monetary value from contractors/subcontractors.

MODIFICATIONS TO EXISTING CONTRACTS - If there are contract modifications a new cost analysis must be performed.

OTHER - Include all other required provisions in all contracts awarded such as, Equal Employment Opportunity, compliance with reporting requirements, an annual appropriations clause, prohibition against employing illegal aliens, insurance coverage limits, administration and legal remedies for violation or breach of contract, and termination for cause and convenience.

RECORD RETENTION REQUIREMENTS - Retain contract documents for seven (7) years after expiration or termination of a contract.

RETAINAGE REQUIREMENTS - Provisions for retainage shall be included in a contract for sums as prescribed by state law, and may include provisions for retainage not covered by state law.

SIGNATURES - Signatures by all parties to the contract are required.

SOCIOECONOMIC CONTRACTING - According to 2 CFR (Code of Federal Regulations) 200.321, Gilpin 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. Affirmative steps must include:

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 requirements, 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 encourages participation by small and minority businesses, and women's business enterprises.
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in 1 through 5.

TAX - Gilpin County is exempt from paying sales tax.

TYPES OF CONTRACTS - There are many other types of contracts.

- Time and Materials (T&M) - Gilpin County may use time and materials (T&M) contracts only after a determination that no other contract is suitable and the contract includes a ceiling price that the contractor exceeds at its own risk.
- Fixed Price - Gilpin County may use a fixed price contract and this contract must have a maximum. This type of contract is used if details of required work are not well defined.