

**Judicial Council of California  
Administrative Office of the Courts**

Administrative Office of the Courts Policies and Procedures

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**PROCUREMENT OF GOODS AND SERVICES**

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**Policies and Procedures**

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# Procurement of Goods and Services

## 1.0 Purpose

The purpose of this policy is to establish uniform guidelines for the Administrative Office of the Courts (AOC) to use in procuring necessary goods and services and to document that AOC procurement practices are fair and reasonable, and provide for economical use of public funds.

## 2.0 Policy Statement

It is the policy of the AOC that the procurement of goods and services be conducted economically and expeditiously, under fair competition, and in accordance with sound procurement practice. All procurement actions shall be planned, implemented and administered under procurement guidelines that are clear and concise. Employees who are authorized to commit public funds are held to a high level of accountability. At a minimum, they are expected to conduct themselves with integrity, objectivity, and fairness.

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## **4.0 Application**

The procurement policies and procedures described in this section apply to all AOC employees who participate in the specification, requisition, approval, award, purchase, receipt, or payment for goods and services required by the AOC, Judicial Council, Supreme Court, Courts of Appeal, Trial Courts, Habeas Corpus Resource Center, or the Commission on Judicial Performance.

## **5.0 Definitions**

1. **Audit Trail.** A series of documents or electronic entries that trace the movement and location of funds through an accounting system (e.g., receipt, cash collection record, deposit permit request, monthly cash settlement report).
2. **Award.** The selection of a vendor, supplier, or contractor for a procurement action.
3. **Bid.** A response to an Invitation for Bid that contains an offer to provide goods and/or services at a specified price.
4. **Bidders' Conference.** A conference held prior to submittal of bids, quotes or proposals to clarify the requirements of the goods or services being requested. Typically, a Bidders' Conference is held only for sizeable, complex transactions.

5. **Blanket Purchase Order (BPO).** An arrangement under which a purchaser contracts with a vendor to provide an undetermined amount or level of goods or services for a specified period of time and up to a maximum dollar amount.
6. **California Multiple Award Schedule (CMAS).** A program created by the Department of General Services in 1994 following the 1993 passage of AB 1727 (Polanco). The CMAS Unit establishes agreements with those manufacturers and suppliers that offer products and/or services that are currently on an existing multiple award schedule with the federal General Services Administration (GSA) or other approved multiple award contract. Although the GSA contract prices are lowest possible prices, CMAS prices are not, and CMAS prices are therefore subject to further negotiation. In addition, organizations that use CMAS contracts are charged a fee by the Department of General Services (DGS) of 1.21% of the purchase price; however, this fee is waived by DGS if the CMAS vendor is a small business. CMAS contracts are not intended to supplant the requirements of this policy for competitive offers.
7. **Conflict of Interest.** A set of circumstances (e.g., a personal or economic interest) that may prevent an individual (i.e., an AOC employee or contractor) from acting in the best interest of the AOC or Judicial Council in carrying out his or her official duties (see Section 6.1, Standards of Conduct).
8. **Contract.** An agreement between two parties to perform an action (e.g., provide goods or services) in return for some consideration (usually compensation). The contract defines the scope, schedule, consideration, and terms and conditions which the parties agree to abide by under the agreement. (Note: all contracts for goods and services must be in writing; see Policy Regarding Legal Review of Procurement Matters.)

9. **Contractor.** A person or business that enters into an agreement (a contract) to provide goods or services to another party in return for legal consideration.
10. **Contract Transmittal Form (CTF).** A document that specifies the work, schedule, deliverables, costs, etc. to be included in a contract document. It is currently also used as a requisition for services.
11. **Formal Competitive Procurement.** The acquisition process used for procurements that exceed a value of \$20,000. The process requires the solicitation of bids, quotes, or proposals (collectively, offers) from providers, the evaluation of responses against predetermined criteria and the award of a purchase order or contract to the offeror that best satisfies the stated criteria.
12. **Invitation for Bid (IFB).** A solicitation document used when the goods and/or services to be purchased are very well defined, the primary decision factor is price, and no communication with the bidders is necessary prior to any award.
13. **Master Agreement.** An agreement that may be used to facilitate contracting for services to be provided by suppliers with whom there is a reasonable expectation of continuing procurements of the same or similar services. Each procurement remains subject to the competitive procurement requirements of this policy. Master Agreements are used so that each procurement need not be the subject of a separate contract for the same or similar services.
14. **Micro Purchase.** A purchase with a total value of \$1,000 and up to and including \$5,000.
15. **Offeror.** Vendors, suppliers, bidders, proposers, or contractors submitting bids, quotes or proposals.

16. **Procurement.** The process of acquiring goods or services to support the operations of a company or public entity.
17. **Proposal.** A response to a Request for Proposal that describes the proposer's approach, scope of work, schedule and cost to provide goods or services.
18. **Purchase Order (P.O.).** A form of contract used to document a purchase transaction (usually for goods). Purchase orders are sequentially numbered for control purposes, with fields that identify the quantity, price, and description of goods ordered, payment terms, discount factors, and date of delivery or performance.
19. **Quote.** An offer (written or verbal) that describes the respondent's price for goods or services to be procured. Discussions with the offeror are required to confirm the terms of the quote before an award is made.
20. **Request for Bid (RFB).** See Invitation for Bid, above.
21. **Request for Proposal (RFP).** A solicitation document used when the goods or services required are not precisely defined. Responses are judged against each other using predetermined selection criteria. The procuring party reserves the right to negotiate after the submittal of proposals, but may also make an award without discussions or negotiations. Most often used to acquire services.
22. **Request for Quote (RFQ).** A solicitation document used when award will be made after negotiation with the offeror. Quotations received must be discussed and confirmed to determine which one offers the best value to the AOC or Judicial Council before a purchase order or contract can be awarded.
23. **Requisition.** A written or electronic request that initiates the procurement process. The requisition clearly describes the required

goods or services, the quantity needed, and the schedule for delivery or performance. (Currently, a contract transmittal form (CTF) is used as the requisition for services).

24. **Sealed Bid.** A bidder's response to an IFB or RFB that is physically sealed and publicly opened at a specific date and time with all other bids received. Contract award is made to the most responsive, responsible bidder. Sealed bids are used when discussions with offerors are not required and award is based primarily on price.
25. **Small Dollar Micro Purchase.** A purchase that is less than a total value of \$1,000.
26. **Small Purchase.** A purchase with a total value greater than \$5,000 and up to and including \$20,000.
27. **Sole Source Procurement.** The award of a contract to a vendor without competitive bidding. Under sole source procurement, an offer is solicited from only one vendor. Justification for sole source procurement must be approved as further described in Section 6.5, Sole Source Procurements.
28. **Solicitation Document.** A document used to obtain bids, quotes, or proposals (collectively, offers) for required goods or services. The solicitation document describes the needed goods or services, the quantity required, the conditions under which work will be performed, delivery schedule and other requirements of the requestor. Instructions for the content and submittal of the solicitation response are also provided.
29. **Supplier.** A person or business that contracts to sell goods or services.
30. **Vendor.** A person or business that contracts to sell goods or services.

## **6.0 Text**

### **6.1 Standards of Conduct**

#### **6.1.1 Incompatible Activities**

1. All AOC procurement activities must be conducted in a manner that is impartial, above reproach, and without preferential treatment. AOC employees must perform their duties in a manner that avoids even the appearance of a conflict between their personal interests and the interests of the AOC. While it is not feasible to describe all possible incompatible activities that could develop, some of the more common types of incompatible activities in which employees must not engage are:
  - a. Receipt or acceptance, directly or indirectly, of a gift, service, gratuity, favor, entertainment, hospitality, loan, or anything of value from anyone who is doing or seeking to do business with the AOC or other judicial branch entity. Gifts that are delivered under circumstances where return is not feasible (e.g., holiday candy, items of nominal value) will be donated to charity.
  - b. Release of information regarding any procurement that would give an unfair competitive advantage to any individual, business entity, or offeror.
  - c. Making any commitment or promise regarding the selection of a contractor or award of a procurement.
2. If someone with whom the AOC employee has a close relationship has a financial or employment relationship with a person or entity that is doing or seeking to do business with the AOC or other judicial branch entity, an incompatible activity or the appearance of such may result.



3. Employees unsure as to whether a particular transaction, activity, or relationship constitutes an incompatible activity should consult with their supervisor or the Human Resources Division. (See *California Judicial Branch Personnel Policies and Procedures Manual*, section 6.2.)

### **6.1.2 Conflict of Interest**

1. All government employees are prohibited from making, participating in making, or in any way attempting to use their position to influence, a decision in which the employee has a financial interest. AOC employees must disqualify themselves from taking or influencing any action that may affect their financial interests.
2. A financial interest in a decision exists when it is reasonably foreseeable that the decision will have a material financial effect on the employee's investment of \$2,000 or more; real property investment of \$2,000 or more; income sources of \$500 or more per year; a business in which the employee is an officer, manager, or employee; or donations of gifts of \$250 or more per year. Employees are considered to own an interest or investment if their spouse, dependent child, or agent owns it.
3. When an employee determines that he or she must not be involved in a decision on a particular matter because of a conflict of interest, the employee must withdraw from participation, refrain from influencing others, and disclose the conflicting interest in writing to the employee's supervisor.
4. No AOC employee may participate in the selection, award, or administration of any procurement with regard to which a conflict of interest exists or could reasonably be perceived to exist, nor participate in any activity that might result in favored treatment of contractors, vendors, or suppliers.

5. For more information about conflicts of interest and related policies and procedures, please contact the AOC Human Resources Division. (See, too, *California Judicial Branch Personnel Policies and Procedures Manual*, section 6.3.)

## **6.2 Standard Procurement Process**

1. The requesting Division must first determine and document the business need for the procurement, the quantity of goods or the scope of work required, and whether there are preferable alternatives. Business needs for the procurement will be considered throughout the procurement process in the event changes occur (e.g., the vendor will not agree to acceptable terms, or changes occur which affect the scope of the procurement).
2. The procurement process begins with the completion of a written or electronic purchase requisition by the requesting Division and submittal of the requisition to the employee within the requesting Division who is responsible for managing the funds to be used and approving the purchase. It is the responsibility of the person who approves the requisition to assure that funds are available in the Division's budget for the proposed purchase.
3. Upon approval of the purchase requisition, the requisition is forwarded to Business Services to verify reasonableness of the price for a Small Dollar Micro Purchase, to review or obtain bids, quotes or proposals (hereinafter referred to as offers) from vendors, suppliers, bidders, proposers, consultants, or contractors (offerors) selected by the Division, or to initiate the procurement process for sole source procurements if permitted under Section 6.5, Sole Source Procurements.
4. It is the responsibility of Business Services to ensure that fair competition exists in the selection of offerors. When offers are received, the Division and Business Services will, through a

cooperative effort, analyze the offers to select the one that provides the best value to the AOC. The Division has the primary responsibility for determining which offer is selected. If the Division and Business Services cannot agree on the selection of the best offer, the Business Services Manager will resolve the issue with the Division Director.

5. A purchase order or contract is used to authorize the transaction; all AOC contracts for goods or services must be in writing.
6. Receipt of the goods or services is documented prior to partial or final payment.

### **6.3 Purchase Requisition and Approval**

1. A written or electronic purchase requisition that clearly describes the goods or services required, the quantity needed, and the schedule for delivery or performance is used to initiate all procurement actions. After the requestor determines the need for the procurement, the requestor verifies that budgeted funds are available for the purchase, completes the written or electronic requisition form, and forwards it to the employee responsible for managing the funds to be used and approving the purchase. It is the responsibility of the person who approves the requisition to verify that the correct account code(s) are specified, and to assure that funding is available. The following table provides requisition approval authority levels for AOC staff and management.

#### **Approval Thresholds for AOC Procurements<sup>1</sup>**

<b>Position</b>	<b>Approval Threshold</b>
Division Director	\$25,000 and above
Assistant Director	Less than \$25,000
Manager	Less than \$10,000

<sup>1</sup> Threshold values refer to total procurement value, not individual items within a single procurement.

2. If a Division Director requires Approval Thresholds different than those listed above or in the Approval Matrix maintained by the Finance Division, he or she must notify the Business Services Manager in writing of the thresholds required for his or her Division and request Accounting to modify the Approval Matrix. All temporary delegations of purchase requisition approval authority, e.g., to accommodate vacations, must be submitted to the Business Services Manager by email or other writing.
3. Once approved by the Division, the requisition must be forwarded to Business Services. Business Services will forward the requisition to Accounting and Budget to verify that the accounting code is correct and that funds are available.
4. Once verification of the accounting code and availability of funds is complete, Business Services will transmit the RFB, RFQ or RFP developed by the Division and/or Business Services, by mail, fax, or email, as appropriate, to a number of vendors, identified by the cooperative effort of the Division and Business Services, that assures at least three offers are received. The Business Services Manager may approve issuance of RFPs prior to submittal of a fully authorized requisition.

## **6.4 Competitive Procurement Methods**

### **6.4.1 General**

1. The value of the goods and services to be purchased is an important factor in determining the procurement method that will be utilized. Except as provided by Section 6.5, Sole Source Procurements, all procurements valued at or over \$1,000 must be conducted on a competitive basis as described in this Section. The following table lists four purchasing thresholds and identifies the appropriate procurement method for each one.

- Any deviation from these threshold values or methods of procurement must be approved in advance by the Business Services Manager.

### **Purchasing Thresholds and Methods for AOC Procurements<sup>2</sup>**

<b>Purchase Value</b>	<b>Procurement Type</b>	<b>Procurement Method</b>
Less than \$1,000	Small Dollar Micro Purchase	Purchases will be awarded according to good purchasing practice. Business Services will notify the successful vendor of the award.
\$1,000 to \$5,000	Micro Purchase	At least three offers must be obtained by Business Services through the internet or by email or telephone and documented in writing.
\$5,001 to \$20,000	Small Purchase	At least three written offers must be obtained by Business Services.
Greater than \$20,000	Formal Competitive Procurement	Formal written offers must be obtained by Business Services.

- Business Services and the Division requesting the procurement will work cooperatively to prepare and review solicitation documents (e.g., RFPs), contracts, and other procurement documents before transmittal to bidders, during bid evaluation, negotiation, selection of bidder, and contract finalization. The Division shall have primary responsibility for development of the RFP, technical documents, work requirements, qualifications of vendors, evaluation criteria, technical negotiations, costs of procured goods and services, and related issues. Business Services shall have primary responsibility for commercial

<sup>2</sup> Thresholds refer to total procurement value, not to individual items within a single procurement.

provisions, and the bid solicitation and contracting process, including notification of awards. Collaboration between the Division and Business Services, especially for technical procurements, is essential to ensure that the best value is obtained.

4. The Office of the General Counsel (OGC) will review and approve RFPs, contracts, and other procurement documents depending on the dollar amount and liability risk of the procurement (see the “Policy Regarding Legal Review of Procurement Matters”). Early participation in the planning process by both Business Services and OGC is required for:
  - a. Contracts of \$1,000,000 or more.
  - b. High risk activities.
  - c. Contracts of an unusual nature such as those involving royalty agreements.
5. In transactions involving the Division, Business Services, and OGC, there must be a coordinated team approach to negotiations. This will prevent a vendor from undermining the AOC’s position by holding separate discussions unknown to other members of the AOC team. The Division has primary responsibility for technical negotiations; however, Business Services has primary responsibility for commercial provisions and must participate with the Division in all price negotiations for Formal Competitive Procurements. The Business Services Manager is responsible for assigning qualified personnel to participate in price negotiations.
6. If a dispute arises regarding an action, including pricing, or the responsibility for an action within these procedures, the dispute will be brought to the Division Director and the Business Services Manager for resolution.

7. Exceptions to these requirements may be authorized by the Business Services Manager in the event the Business Services Manager determines, in writing, that an exception is in the best interest of the AOC.

#### **6.4.2 Small Dollar Micro Purchases -- Value Less than \$1,000**

1. Written offers and documentation are not required for purchases totaling less than \$1,000. However, good procurement practices must be followed to determine that a fair and reasonable price will be paid including:
  - a. An approved purchase requisition.
  - b. Timely and economical provision of goods and services to the AOC.
  - c. Maximizing the benefit received by the AOC.
2. Purchases may be completed by Business Services using a purchase order or purchase card.

#### **6.4.3 Micro Purchases -- \$1,000 and up to and including \$5,000**

1. For procurements of \$1,000 and up to and including \$5,000, Business Services must obtain at least three offers from offerors by telephone or email or through the Internet. Only one offer may be obtained from a vendor using California Multiple Award Schedule (CMAS) pricing.<sup>3</sup> All telephone offers must be documented by the procuring employee by fax or email from the offerors.

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<sup>3</sup> The CMAS program is managed by the California Department of General Services. The CMAS Unit establishes agreements with manufacturers and suppliers that offer products and/or services that are currently on an existing multiple award schedule with the federal General Services Administration or other approved multiple award contract. For more information visit the [California Multiple Award Schedule \(CMAS\) Home Page](#). Although federal GSA contract prices are the lowest possible prices, CMAS prices are not, and CMAS prices are therefore subject to negotiation.

2. If the Business Services Manager provides advance authorization for a Division to obtain the offers, the solicitation document (e.g., RFB, RFQ, etc.) and all offers must accompany the approved requisition. If the solicitation process used by the Division is considered not to be in compliance with these procedures, as determined by the Business Services Manager, Business Services may notify the offerors of the cancellation of the Division's solicitation and solicit new offers.
3. Following receipt of at least three offers, the procurement will be awarded to the offeror who will provide the requested goods or services for the best price/value within the AOC's time requirements. Business Services is responsible for notifying the vendor that it has been awarded the procurement.
4. The solicitation information must be kept in Business Services' procurement files. Purchases of up to and including \$5,000 may be executed by Business Services with a purchase order, contract, or a purchase card (if the card is authorized for that amount).

#### **6.4.4 Small Purchases -- Value Greater than \$5,000 and up to and including \$20,000**

1. Small purchases are defined as those with a value greater than \$5,000 and up to and including \$20,000. These procedures recognize that up to a certain limit, the cost of a formal competitive procurement may be greater than the value yielded by the formal competitive solicitation process. Small Purchases simply require that Business Services receive offers from an adequate number of vendors. Reasonable efforts shall be made to obtain at least three offers, one of which may be obtained from a vendor under California Multiple Award Schedule (CMAS) pricing.



2. Business Services is responsible for ensuring transmittal of the solicitation documents via mail, fax, or email to a number of vendors that assures at least three offers are received. A submittal deadline and the method of submitting offers (e.g., by mail, fax, email) must be communicated to the prospective offerors.
3. Following receipt of at least three offers by Business Services, the procurement will be awarded to the offeror who will provide the requested goods or services for the best overall value within the time required by the AOC. Business Services is responsible for notifying the vendor that it has been awarded the procurement. The procurement may be executed by Business Services with a purchase order or contract.
4. If fewer than three offers are received, the appropriateness or reasonableness of the cost must be documented by the Division and submitted to Business Services for retention in its procurement file. The names and addresses of the firms or individuals solicited for bids or proposals must be documented by Business Services in its procurement file.
5. In some cases, as determined by the Business Services Manager, Small Purchases are best executed with a contract. This is often true when the AOC needs to obtain services or for procurements that are considered to be complex. Complex procurements are those that require considerable and detailed explanation of the requirements and obligations of the buyer and seller. Complex procurements may also require special contract clauses that are not typically covered by the standard terms and conditions of a purchase order.

#### **6.4.5 Formal Competitive Procurements -- Value Greater than \$20,000**

1. For all procurements of goods or services that exceed a value of \$20,000, at least three written offers must be obtained by Business Services. The steps recommended for obtaining written offers are listed below:
  - a. A Request for Quote, Request for Proposal, or Invitation for Bid must contain a clear and accurate description of the material, product, or service to be procured. The written specifications may not be written to unduly restrict competition. The Division has the primary responsibility for creating the solicitation documents and specifications.
  - b. If procuring goods, the solicitation document should state where delivery is to be made and that delivery is included in the offer price.
  - c. The solicitation document should provide a schedule for delivery of the requested material or product, or completion of the requested work.
  - d. If other criteria are to be used in selecting the successful offeror, such criteria must also be listed (e.g., qualifications, experience, acceptance of AOC terms and conditions, inventory in stock, etc.).
  - e. The Division has primary responsibility for development of the selection criteria. Business Services will provide assistance and work with the Division in the development of the criteria. The order of importance of the selection criteria should be provided to the prospective offerors.
  - f. The deadline and location for submittal of offers must be clearly stated.
  - g. If applicable, notification of a bidder's conference and whether the conference is mandatory for acceptance of a proposal must be included in the solicitation document.

- h. The solicitation document must state that the offeror that provides the best value to the AOC as determined by the AOC (based on an evaluation of all offers according to the stated selection criteria) will be selected for award. In addition, the AOC should reserve the right to:
  - i. Reject any and all bids or proposals or any parts thereof.
  - ii. Reject any bid or proposal that is nonresponsive to the solicitation requirements.
  - iii. Reject any bid or proposal because the submitting firm or individual does not meet the AOC's stated criteria for contractor responsibility.
  - iv. Reject any bid or proposal where the offeror fails to satisfactorily comply with a criterion, regardless of the listed importance of the criterion, if it is considered a significant element of the procurement.
- i. Business Services is responsible for ensuring transmittal of solicitation documents to a list of vendors. The Division and Business Services will work cooperatively to identify the vendors; however, the Division has primary responsibility for determining which vendors will be sent the solicitation document.
- j. The Division may also post the solicitation documents on the California State Contracts Register or the California Courts website so long as Business Services reviews the documents prior to posting.
- k. Any changes or addenda to the solicitation made after it is issued must be documented and provided to all of the solicitation document holders by Business Services. The Division has the primary responsibility for creating the solicitation addenda documents.
- l. Business Services is responsible for receipt of offers. All offers received prior to the submittal deadline must be opened after

the time designated in the solicitation (only sealed bids need to be opened publicly); responses to AOC solicitations (including bids, quotations, and proposals) must not be opened before the stated opening time. Proposals to AOC solicitations received after the submittal deadline must be returned by Business Services unopened.

- m. Business Services and the Division will document the offers received, the offer prices and the responses to any other offer criteria specified in the solicitation documents.
  - n. Business Services and the Division will evaluate the offers against the stated selection criteria to determine the responsiveness of each offer and the responsibility of each offeror; the Division has primary responsibility for the evaluation.
  - o. The Division and Business Services will select an offeror from among the offers received, based on the stated evaluation criteria; the Division has primary responsibility for the selection.
  - p. For IFBs, if the lowest priced offer is not selected, the Division must document in writing why the selected offeror is the most responsible and responsive offeror. This documentation must be signed by the Division Director and the Business Services Manager and kept in the Business Services procurement file.
  - q. Award of the procurement, if in the AOC's best interest, will be made by Business Services by issuing a purchase order or executing a contract with the selected offeror.
2. Individuals or businesses (including affiliates of the businesses) that assist the AOC in the preparation of solicitation documents generally are not permitted to submit offers because they may have an unfair advantage. However, the Business Services Manager and the Division Director may allow such individuals or businesses to submit offers when they do not appear to have an unfair advantage and it is in the interest of AOC to allow them to submit offers.

3. Individuals or businesses that have a financial interest, conflict of interest, or perceived conflict of interest in a procurement are prohibited from assisting the AOC in the evaluation of proposals.

#### **6.4.6 Special Considerations for Sealed Bid Procurements**

1. Under certain conditions, a sealed bid process may be used. Conditions that lend themselves to the use of sealed bids include:
  - a. A complete, adequate, and realistic specification or purchase description.
  - b. Two or more bidders who are willing to compete for the business.
  - c. A procurement that lends itself to a firm, fixed price contract.
  - d. A selection that can be made mainly on the basis of price.
2. If a sealed bid process is used, the following additional procedures should also be followed:
  - a. Instructions for submitting a sealed bid must be provided to all bidders in the IFB (e.g., "Bids must be submitted in double envelopes with the outside envelope clearly marked with the bid number and bid name").
  - b. Employees who receive and open mail must be instructed not to open sealed bids.
  - c. The unopened bid envelopes must be stamped with the date and time received, and delivered to the person designated to receive the bids.
  - d. A log of the bids received must be kept by Business Services.
  - e. Business Services will publicly open the bids at the place and time specified in the IFB, and will announce the bidder's name and the bid amount as each bid is opened. Business Services will document in writing the bidders' names and their bid amounts.

3. Reasonable efforts must be made by Business Services to obtain at least three bids. If fewer than three bids are received, the appropriateness or reasonableness of the cost must be documented by the Division and submitted to Business Services for its procurement file. The names and addresses of firms or individuals solicited for bids must be documented by Business Services in its procurement file.

## **6.5 Sole Source Procurements**

1. Full competition is a primary goal of public procurement. Sole source procurement is a noncompetitive exception to the norm. It is accomplished by soliciting an offer from only one source under conditions that normally require the use of competitive procurement methods (see section 6.4). Sole source procurement may only be used when award under small purchase, sealed bid, or competitive proposal procedures is deemed infeasible. Justification for sole source procurement must be documented prior to the procurement and approved by the Business Services Manager, the requestor, and the Director of the requesting Division. Justification must include at least one of the following reasons:
  - a. The required product or service is only available from one source (e.g., maintenance and/or upgrades of existing proprietary software in circumstances where a competitive bid is not feasible, Original Equipment Manufacturer, etc.).
  - b. An emergency does not permit the time needed for a competitive procurement.
  - c. After solicitation of a number of sources, competition is determined to be inadequate.
  - d. The contract is for legal services, including expert witnesses<sup>4</sup>.

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<sup>4</sup> Procurements for legal services and expert witnesses in litigation matters are exempted from bidding requirements under Public Contract Code section 10335.5(c) (3), (4). (Reference to the Public Contract Code is for information only and does not imply that the code is applicable to judicial branch entities.) Although not required to do so, OGC issues RFPs for a variety of legal services on a periodic basis to

- e. Sole source procurement is needed to avoid financial loss to the AOC (e.g., interruption of essential operations, damage to AOC resources, etc.).
  - f. Consulting services in an amount less than \$5,000 when pricing is reasonable.
  - g. Exercise of an option to extend the term of a contract for a reasonable period (considering the nature of the procurement) when the terms of the original contract provided for extension and the option was evaluated during the bid process.
  - h. Competitively bid contracts which did not include an option to extend may be extended on one occasion for a maximum one-year period and not to exceed 30% of the contract value.
2. Justification of the rationale for sole source procurements must pre-date the actual procurement, and must be documented by the Division thoroughly and carefully in the event an audit or investigation is performed during or after the procurement; such documentation must be sent to Business Services for inclusion in its procurement files. Factors to be considered in justifying a sole source procurement include:
- a. The effort made to solicit competitive bids or proposals, if any.
  - b. Cost information in sufficient detail to support and justify the cost of the contract.
  - c. Cost information for similar services and differences that should be noted and explained.
  - d. Special factors affecting the cost under the contract.
  - e. An explanation of why the AOC believes the cost is appropriate.

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encourage broad participation of legal services providers in contracting opportunities with the AOC and to ensure fair and reasonable prices and high quality services are obtained.

## **6.6 Circumvention of Procurement Requirements**

No procurement may be divided in order to circumvent requirements based on purchase value thresholds. All procurements must be made in a manner that will afford the AOC the maximum value or benefit through competitive procedures and consolidation of purchases.

## **6.7 Purchase Orders**

1. A purchase order is a contract document that is issued to authorize a vendor to provide goods. Payment is made according to the terms and conditions printed on the purchase order unless otherwise specified in writing. The terms and conditions printed on a purchase order usually apply to the purchase of goods rather than services. Purchase orders may be used only for low risk, simple purchases of goods (e.g., commodities) up to \$100,000 or, with the approval of the Business Services Manager, low risk services up to \$10,000. When appropriate, the Business Services Manager may approve use of purchase orders for procurements exceeding these amounts.
2. Purchase orders issued by the AOC shall be numbered according to a system that allows them to be verified and prevents unauthorized purchase orders from being issued. The use of either preprinted, pre-numbered forms or computer-generated purchase order numbers is permitted; computer-generated purchase order numbers are preferred.
3. Access to purchase order forms or computerized purchasing systems must be limited to a minimum number of authorized AOC employees.
4. The original purchase order will be sent by Business Services to the vendor with a copy to the Division. A copy of each purchase order issued by the AOC shall be maintained in the Business Service's procurement files (see section 6.13, Administration and Documentation).



## **6.8 Use of Blanket Purchase Orders**

1. Blanket purchase orders (BPOs) may be used to streamline the process of filling repetitive needs for goods. A BPO may be established if there is a broad class of goods that is purchased (e.g., office supplies) but the exact items, quantities, and delivery requirements are not known, and/or the administrative cost of issuing numerous purchase orders can be avoided through the use of this one-time procedure.
2. To the extent practicable, BPOs for the same types of items should be placed with more than one vendor to promote competition, assure a steady supply, and deliver the best value to the AOC.
3. The existence of a BPO or CMAS contract is not justification for procurement on a sole source basis in and of itself. Depending on the size and complexity of the procurement, appropriate procedures must be followed including obtaining offers by telephone or in writing prior to placing an order under a BPO or CMAS contract (see Section 6.4).
4. BPOs are issued on the AOC's standard purchase order form with the following additional terms and conditions:
  - a. A statement that the supplier will provide the items described in general terms, if and when requested, for a specified time period up to a specified maximum dollar amount, whichever occurs first.
  - b. A statement that the AOC is obligated only to the extent that purchases are made under the BPO. There is no guarantee that a BPO is exclusive, that a minimum number of orders will be placed, or that a minimum dollar value of goods or services will be purchased under the BPO.
  - c. Any restrictions on items that may be purchased.
  - d. A statement that sets a maximum dollar amount per order under the BPO, if desired.

5. Vendors with BPOs should be provided with a list of the individuals authorized to make purchases under the BPO. All deliveries made under the BPO shall be accompanied by detailed packing slips or similar documentation that contain at least the following:
  - a. Name of the vendor.
  - b. BPO number and release number, if applicable.
  - c. Purchase date.
  - d. Itemized list of supplies or services furnished.
  - e. Quantities, unit prices, item extensions.
  - f. Delivery or shipment date.
6. Receipt and acceptance documentation (e.g., packing slips, invoices, or similar documents) should be signed by the receiving employee indicating receipt and acceptance of the goods. Packing slips or similar documentation should then be sent to accounts payable for later matching against monthly invoices.
7. On a monthly basis, if deemed appropriate by Business Services, vendors with BPOs must submit a summary invoice for all deliveries or shipments made during the preceding month, identifying the packing slips or other documentation of receipt and acceptance.
8. Unless amended, a BPO is considered to be complete and closed-out when purchases placed against it equal the BPO maximum amount or when the term of the BPO expires, whichever occurs first.

## **6.9 Use of Master Agreements**

1. Master Agreements may be used to streamline the process of filling recurring needs for services. A Master Agreement may be established if there is a broad class of services that is procured (e.g., temporary agency help) but the exact quantities and schedule requirements are not known in advance, and/or the administrative

cost of issuing numerous contracts can be avoided though the use of this procedure.

2. To the extent practicable, Master Agreements for the same types of services should be placed with more than one vendor.
3. The existence of a Master Agreement alone is not justification for procurement on a sole source basis. Appropriate procurement methods must be followed in order to enter into a Master Agreement (see Section 6.4).

### **6.10 Use of Purchase Cards**

1. Purchase cards may not be used to circumvent established procurement procedures. All procurements executed using a purchase card must be initiated by an approved purchase requisition.
2. Purchase cards are a method of payment that work like personal credit cards and offer a number of streamlining advantages over traditional procurement methods. They also pose challenges in monitoring their use that must be addressed by the establishment of internal controls.
3. Currently, the only purchase cards authorized for use by the AOC are the CAL-Cards. The CAL-Cards are to be used for official AOC business only; personal use is prohibited. CAL-Cards shall be used in accordance with the AOC's CAL-Card, State of California VISA Purchasing Card procedures.

### **6.11 Receipt of Goods and Services**

To assure the implementation of strong internal controls, the receipt of goods and performance of services must be acknowledged and documented.

### **6.11.1 Receipt of Goods**

The person receiving the procured goods should indicate his or her receipt and acceptance by signing and dating the accompanying packing slip, invoice or other similar documentation. The proof of receipt and acceptance should then be sent to accounts payable for processing.

### **6.11.2 Receipt of Services**

The person requesting or managing the procured services (e.g., the Project Manager named in a contract) must provide documentation that the work associated with the invoiced amount has been completed and accepted. The contractor's invoice should be signed and dated by the individual responsible for monitoring the work, as indication of the receipt and acceptance of the services, and sent to accounts payable for processing.

## **6.12 Payment**

1. Invoices can be paid only if they are supported by appropriate documentation and approved by authorized AOC employees. A three-point-match of the purchase order or contract, documentation of receipt and acceptance (e.g., packing slip or invoice signed by the individual receiving the goods, invoice signed by the individual managing the procured services), and the invoice constitutes appropriate documentation. The employee who requests the procurement of a good or service and initiates the purchase requisition is responsible for acknowledging and documenting the receipt of goods or completion of invoiced services, as described above. Accounts payable matches the purchase order or contract quantity and price or rate to the receipt and acceptance documentation and the invoice. The entire package, containing the purchase order or contract, documentation of receipt and acceptance, and invoice should be presented to the employee who is authorized

to approve payment for signature. The signed package is then returned to accounts payable for payment and filing.

2. Any discrepancies between requisitions, purchase orders or contracts, invoices, documentation of receipt and acceptance, and the actual goods or services received must be corrected before processing a request for payment.
3. There must be a segregation of duties among employees involved in the procurement process. The same employee may not initiate the requisition, approve the requisition, and receive the goods or services. However, the same employee may initiate the requisition and receive the goods or services, although receipt by a second person strengthens internal controls. In every case, the procurement activities and payment approval must be the responsibility of separate employees.

### **6.13 Administration and Documentation**

1. The expenditure of public funds is subject to review or audit during and after performance to assure that the AOC “gets what it pays for.” The procurement file, maintained by Business Services, must stand alone to demonstrate that the procurement official and the vendor or contractor have complied with the terms of the purchase order or contract. The file must also show that any disputes have been settled according to good administrative practice and sound business judgment.
2. A properly documented procurement file for purchase orders and/or contracts provides an audit trail from the initiation of the requisition to the delivery of goods. The file provides a complete basis for informed decisions at each step of the acquisition process. A well documented file also supports the actions taken, provides information for later review and facts in the event of a dispute or an investigation.

Depending on the nature and value of the procurement, procurement files should contain:

- a. Purchase requisition.
  - b. Rationale for method of procurement (quotes, sealed bid, proposal, etc.).
  - c. List of sources solicited.
  - d. Specifications, scope of work, or scope of services.
  - e. Copy of the solicitation and any amendments or addenda.
  - f. List of each offer received.
  - g. Copy of the winning offer and the offers rated second and third best.
  - h. Source selection documentation.
  - i. Internal approvals for award.
  - j. Notice of award, if applicable (may not apply to bids or quotes).
  - k. Notices to unsuccessful offerors, if applicable (may not apply to bids or quotes).
  - l. Records of protest, if any.
  - m. Required insurance documents, if applicable.
  - n. Notice to proceed.
  - o. The executed contract or purchase order.
  - p. Contract legal review and approval, if applicable.
3. In addition, the Project Manager shall keep a working contract file that contains the following information:
- a. Memoranda of negotiations, if applicable.
  - b. All incoming and outgoing post-award contract-related correspondence between the parties, such as regarding quality, problems with the work, schedule, changes, progress reports, submittals, evaluations, acceptance, pricing, specifications, and

other aspects of the contract and performance by the Supplier. Internal documents relating to these matters should be retained as well.

- c. Modifications, changes, amendments or addenda to the contract.
- d. Documentation of resolution of claims or disputes.
- e. Documentation of stop work, suspensions, and termination actions.
- f. Documentation of contract close-out.

## **7.0 Associated Documents**

- Policy Regarding Legal Review of Procurement Matters, effective December 1, 2002.
- Summary of Policies and Procedures for Procurement of Goods and Services, effective December 1, 2002.