

# ADMINISTRATIVE POLICIES AND PROCEDURES

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## **Policy #100: Overview**

### **POLICY #100.100 Introduction**

Administrative policies serve as the guiding principles for the County's administrative processes. Generally, administrative policies are desirable in order to provide guidance and controls over various administrative processes. The County's administrative policies will comply with applicable state statutes.

It is the policy of the Board of County Commissioners (BOCC) that all administrative processes conducted by or on behalf of Johnson County, its agencies, departments, officials and authorized agents under the authority of any budget approved by the Board of County Commissioners shall be made in a manner and method that efficiently and effectively utilizes available financial resources, and demonstrates good stewardship in the management of public funds and resources, and exhibits prudent conduct in conducting the affairs of County government.

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### **POLICY # 100.105 Applicability of Administrative Policies**

The administrative policies adopted by the BOCC shall apply to all elected officials, employees, agencies, departments, boards, commissions, representatives, and authorized agents under the authority of any budget approved by the BOCC in the performance of their official duties for or on behalf of Johnson County Government.

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### **POLICY # 100.110 Process for Amending Administrative Policies**

The BOCC may initiate changes to the existing administrative policies at any time. In addition, the County Manager shall review the County's existing administrative policies on a periodic basis. If changes to the existing administrative policies appear to be necessary and appropriate, the County Manager shall submit a recommendation to the BOCC for consideration and action.

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### **POLICY # 100.115 Establishment of Administrative Procedures**

The County Manager is authorized to establish administrative procedures as deemed necessary to effectively and fairly carry out this policy. Further, the County Manager is responsible for ensuring that the administrative procedures are applied uniformly and consistently in all County offices and departments reporting through or supervised by the County Manager.

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### **POLICY # 100.120 Applicability of Administrative Procedures**

Administrative procedures shall apply to all elected officials, employees, agencies, departments, boards, commissions, representatives and authorized agents under the authority of any budget approved by the BOCC in the performance of their official duties for or on behalf of Johnson County Government.

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**POLICY # 100.125 Violations of Policies and Procedures**

Employees who knowingly disregard or blatantly violate the provisions of the administrative policies or the administrative procedures will be subject to disciplinary action up to and including termination of employment.

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**POLICIES #110: Purchasing**

**POLICY # 110.100 Introduction**

The acquisition of all goods and/or services made by or on behalf of Johnson County, its agencies, departments, officials and authorized agents shall be made by the Purchasing Office in accordance with Board policies and the established Purchasing Procedures. Such acquisition of goods and/or services will be done in a manner and method which provides for the most proficient and effective expenditure of County funds. It shall provide for the maximum protection of the County taxpayer. It shall also provide for the prevention of waste, and the elimination of conflict and corruption. It shall provide for accurate accounting by utilizing applicable accepted accounting practices and generally accepted auditable documentation. It shall also provide equal access and opportunity, in an open and competitive market environment, to all suppliers without regard to factors unrelated to quality, cost and availability of the goods and/or services. It shall comply fully with all applicable Federal, State and Local laws, rules and regulations.

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**POLICY # 110.105 Statutory Authority**

Several state statutes govern purchasing and contracting in Johnson County. Agency, department and office directors and employees involved in the purchasing and/or contracting function are advised to be familiar with the provisions of these statutes. Listed below are a few, but not all, of the most commonly referenced statutes.

- B.1. Bridges ..... K.S.A. 68-1101 et seq.  
K.S.A. 68-1413 et seq.
- B.2. Budget Law. .... K.S.A. 79-2925 et seq.
- B.5. Preferential Bidding..... K.S.A. 75-3740a
- B.6. Real Estate Acquisition, Sale ..... K.S.A. 79-2804 et seq.
- B.7. Roads ..... K.S.A. 68-521  
K.S.A. 68-704
- B.8. Statutory Bonds..... K.S.A. 60-1110 et seq.

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**POLICY #110.110 Goals, Objectives, Principles**

The goal of the County Purchasing office shall be to obtain needed goods and services at the lowest ultimate cost consistent with prevailing economic conditions, appropriate standards of quality and continuity of service, while establishing and maintaining a reputation for openness, fairness and integrity.

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## **PROCEDURE # 110.110 – Goal, Objectives and Principles**

A. The goal of the purchasing activity is to obtain needed goods and services at the lowest ultimate cost consistent with prevailing economic conditions, appropriate standards of quality and continuity of service, while establishing and maintaining a reputation for openness, fairness and integrity. Simply stated, this means "to obtain the right quality, in the right quantity, at the right time, at the right price, from the right source".

B. Embodied in the above statement are the three major objectives of the public purchasing process, which must be weighed and balanced against one another to achieve value in the procurement:

B.1. EFFECTIVENESS. The quality of the goods and/or services procured, the units and quantities procured, and the method of procurement are appropriate to the needs of the organization.

B.2. EFFICIENCY. The time and effort expended, from definition of need through final delivery, and the costs associated with acquiring the needed goods and/or services are reasonable in order to achieve value.

B.3. ECONOMY. The prices paid for goods and/or services reflect savings in taxpayer dollars or product or service improvements and represent the best possible prices obtainable at the time of purchase, consistent with the requirements of the procurement.

C. To achieve balance in the above stated objectives, all employees of Johnson County involved in the procurement process shall subscribe to and work for the following principles:

C.1. To consider the best interests of the County in all transactions and to carry out the County's policies and procedures.

C.2. To purchase without prejudice, seeking to obtain the maximum value for each dollar expended in accordance with established County quality standards.

C.3. To strive consistently for knowledge of materials, supplies and services required by the County and to establish practical methods of acquiring them.

C.4. To be receptive to competent counsel from colleagues and to be guided by such counsel without impairing the responsibility of elected officials, department heads and staff to perform the assigned duties of their respective positions.

C.5. To foster honesty and truth in buying and to avoid conflicts of interest, unethical practices and the appearance of same.

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## **POLICY # 110.115 Scope of Policy**

This policy shall apply to the purchase of any goods and/or services regardless of purpose or necessity unless that purchase is specifically made exempt by the Purchasing Procedures, the Board of County Commissioners, or any applicable Federal, State or local law.

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## **POLICY # 110.120 Ethics**

All elected officials, employees, agencies, departments, boards, commissions, representatives, and authorized agents of the County involved in the procurement process shall perform their duties impartially so as to assure fair competitive access to the County's procurement process by all responsible suppliers, contractors, and providers of services. Public purchasing is a public trust balancing the objectives of procuring needed goods and services with protecting the integrity of the County. Employees shall conduct themselves in such a manner as to foster public confidence in the integrity of the County's procurement process. The Code of Ethics for Johnson County government adopted by the Board of County Commissioners and the Code of Ethics of the National Institute of Governmental Purchasing (NIGP) shall be the standards for employee conduct.

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## **POLICY # 110.125 Preference Policy**

Preference will be given to vendors which have an office or place of business located in Johnson County when all other considerations are equal. To the extent permitted by federal law and regulations whenever the County lets bids for contracts for the erection, construction, alteration or repair of any public building or structure or any addition thereto or for any public work or improvement, or for any purchase of goods, merchandise, materials, supplies or equipment of any kind, the contractor domiciled outside the state of Kansas, to be successful, shall submit a bid the same percent less than the lowest bid submitted for a responsible Kansas contractor as would be required of such Kansas domiciled contractor to succeed over the bidding contractor domiciled outside Kansas on a like contract let in such contractor's domiciliary state in accordance with K.S.A. 75-3740a.

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## **POLICY # 110.135 Authority to Purchase, Contract**

Purchases of goods, professional services and general services in an amount of \$100,000.00 or more shall require formal, publicly advertised competition and approval by the Board of County Commissioners or the appropriate governing board.

Purchases of less than \$10,000.00 may be made, without competition, on the open market upon the authorization of the appropriate agency, department or office director. Purchases of goods and services with a cost exceeding \$10,000.00 but not over \$100,000.00 shall require competitive procurement practices, and the County Manager shall establish Purchasing Procedures consistent with this Policy, to ensure the proper and effective procurement.

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## **PROCEDURE # 110.130 RESPONSIBILITY**

A. The **County Manager** is responsible for ensuring that the purchasing policy is applied uniformly and consistently in all County offices and departments reporting through or supervised by the County Manager, his appointees and/or designees. The County Manager is responsible for establishing administrative guidelines for the purchase of all commodities, materials, equipment and services for County agencies, departments and offices.

B. **Agency, department and office directors** are responsible for ensuring that employees in their agency, department or office are fully familiar with federal, state and local laws, regulations and procedures regarding the purchase of commodities, materials, equipment and services for use in their agency, department or office, and that those employees comply fully with the provisions of said laws, regulations and procedures. It is further the responsibility of the agency, department and office directors to ensure that the purchasing policy and procedures are applied uniformly and consistently to all purchases made by their agency, department or office; to ensure that specifications and requirements submitted for procurements provide for maximum competition among the vendors providing the goods or services required; and to plan purchases to allow sufficient time for compliance with the purchasing policy and procedures.

C. The **Purchasing Manager** recommends rules and procedures relative to the purchasing process for establishment by the Board of County Commissioners and the County Manager, and provides assistance and advice, as necessary, in the administration of, and compliance with, the purchasing policy and procedures. The Purchasing Manager is responsible for the direction and management of the County's procurement processes and operations.

D. The **Purchasing Division** is responsible for the purchase or acquisition of commodities, materials, equipment and services for County agencies, departments and offices, in accordance with all applicable federal, state and local laws, regulations and procedures and modern purchasing principles and techniques. The Purchasing Division is also responsible for providing training to familiarize County employees with public purchasing law and concepts in general and Johnson County policy and procedures in particular.

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### **PROCEDURE # 110.135 Authority to Purchase, Contract**

A. The splitting of any aggregate purchase requirement to lower the individual portions of the purchase below the limits where a more restrictive level of competitive bidding (informal or formal) is required (e.g., to keep the portions of the requirement below the \$10,000 or \$50,000 levels of competition) is prohibited.

B. Purchases of less than \$10,000.00 may be made, without competition, on the open market upon the authorization of the appropriate agency, department or office director.

C. Purchases of professional services in an amount less than \$50,000.00 may be negotiated and contracted for by the appropriate agency, department or office director. If requested, the Legal Department will assist user departments in drafting the contracts and will approve the contracts as to form.

D. Purchases of professional services in an amount of \$50,000 to less than \$100,000 may be negotiated and contracted for by the appropriate agency, department or office director, but will require proposal solicitations from a minimum of three qualified respondents. The Legal Department must review and approve contracts as to form and will provide assistance in drafting contract documents upon request.

E. Purchases of goods and general services in an amount of \$10,000.00 or more, but less than \$50,000.00 shall require documentation of the appropriate method of competition and approval by the Purchasing Manager; provided, however, that construction, renovation, and road and bridge projects shall be procured in accordance with the limitations imposed by applicable state or federal law. If requested, the Legal Department will assist user departments in drafting the contracts and will approve the contracts as to form.

F. Purchases of goods, and general services in an amount of \$50,000.00 or more, but less than \$100,000.00, shall require formal, publicly advertised competition and approval by the appropriate department head and the Purchasing Manager. The Legal Department must review and approve contracts as to form and will provide assistance in drafting contract documents upon request.

G. Purchases of goods, professional services and general services in an amount of \$100,000.00 or more shall require formal, publicly advertised competition and approval by the Board of County Commissioners or the appropriate governing board.

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## **POLICY # 110.140 Contract Signature Authority**

All contracts originally awarded by the Board of County Commissioners, with the exception of term and supply contracts, require the signature of the Chairman of the Board of County Commissioners. All other contracts properly approved may be executed on behalf of the County, its agencies or departments by those officials authorized to take such actions by policies of the Board and/or under procedures established by the County Manager.

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## **PROCEDURE # 110.140 Contract Signature Authority**

A. All contracts originally awarded by the Board of County Commissioners, with the exception of term and supply contracts, require the signature of the Chairman of the Board of County Commissioners.

B. All contracts originally awarded by an agency board following their own administrative procedures may be signed by the chairman of that board.

C. All term and supply contracts whether awarded by the Board of County Commissioners or by the Purchasing Division may be signed by the Purchasing Manager.

D. Any contracts for commodities or services of less than \$50,000.00 originally awarded by a department in accordance with these purchasing procedures may be signed by the appropriate department or agency head or designee.

E. Any contracts for commodities or services of \$50,000.00 up to less than \$100,000.00 awarded in accordance with these purchasing procedures may be signed by the Purchasing Manager or Department Head.

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## **POLICY # 110.145 Contract Renewal Authority**

The Purchasing Manager shall have authority to renew term and supply contracts that were originally awarded by the Board of County Commissioners, up to 110% of the annual expenditure authority set by the Board. All renewals estimated to exceed 110% of the annual expenditure authority set by the Board must be approved for renewal by the Board. The County Manager may establish Purchasing Procedures for contract renewals.

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## **PROCEDURE # 110.145 Contract Renewal Authority**

A. The Purchasing Manager, upon concurrence of the user departments, is authorized to approve renewal of term and supply contracts originally awarded by the Board of County Commissioners, up to one hundred ten percent (110%) of the annual expenditure authority set by the Board. The same renewal authority also resides with the Purchasing Manager for maintenance and service agreements and with department heads for agreements that were originally less than \$50,000.00

B. All renewals of the above noted contracts estimated to exceed one hundred ten percent (110%) of the annual expenditure authority set by the Board of County Commissioners must be approved for renewal by the Board.

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## **POLICY # 110.150 Term and Supply Contracts**

County departments and agencies under the scope of this policy shall be required to make purchases from the County's term and supply contracts if an applicable term and supply contract exists for the goods or services required unless the purchase would otherwise qualify for an exemption under these Policies and the Purchasing Procedures.

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## **PROCEDURE # 110.150 Term and Supply Contracts**

Term and Supply Contracts for goods and services when issued for Countywide use and not for specific department related projects do not authorize expenditures against the contract, but only provide an approved vendor(s) and a “not to exceed” spending ceiling. The Board of County Commissioners must authorize expenditures against Countywide Term and Supply Contracts, which have not been previously approved as part of a project, when the total of the single purchase exceeds the limits specified in Section #110.135 paragraph G of the County Purchasing Procedures.

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## **POLICY # 110.155 Change Orders**

Changes related to work performed under a contract are usually documented through the use of change orders. Change orders may be accepted and approved when justified and when deemed necessary for the completion of public business. Except as hereafter provided, the County Manager and/or County official responsible for the management of the project or administration of the contract are authorized to approve change orders for that project on that contract, whenever the change order is justified and the authority is exercised consistent with these policies and the purchasing procedures established by the County Manager.

The following categories of change orders must be approved or expressly authorized by the Board of County Commissioners, or, where applicable, the appropriate agency board:

1. Any change order, regardless of the size of the contract, which itself equals or exceeds the amount of \$100,000.00 and any change order, applicable to a contract having a base contract amount of \$500,000.00 or less, which itself equals or exceeds the amount of \$50,000.00. For the purposes of this part, an individual change order is a single change order covering a specific work item or category of work items (or goods or services) and the related or associated costs. It does not include multiple work items (or goods or services) which are not necessarily related but are grouped together solely for the purpose of efficiently processing them as a single change order document and Any change order which individually or in combination with others causes the project to exceed its project authorization amount or expands the purpose of the project or contract beyond its approved scope; and
2. Any change order applicable to a contract having a base contract amount less than \$100,000.00 which individually or in combination with others exceeds \$10,000.00 and causes the total contract cost to then exceed \$100,000.00; and
3. Any change order applicable to a contract having a base contract amount of \$100,000.00 or more but less than \$500,000.00 which individually or in combination with others exceeds \$50,000.00; and
4. Any change order applicable to a contract having a base contract amount of \$500,000.00 or more but less than \$1,000,000.00 which individually or in combination with others exceeds \$100,000.00; and
5. Any change order applicable to a contract having a base contract amount of \$1,000,000.00 or more which individually or in combination with others exceeds 10% of the base contract amount.

The splitting of change orders into smaller increments to avoid the defined approval thresholds is not permitted.

At any time when a change order or group of change orders are approved or expressly authorized by the Board, the Board may, upon request of the applicable department or official responsible for managing the contract, re-establish a newly defined threshold for further change order approvals applicable to the specific project, contract, or category of change orders and authorize additional methods for approval.

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## **Procedure # 110.155 – Change Orders**

### A. Term and Supply Contract Change Orders

A.1. The Purchasing Manager is authorized to approve all change orders derived from term and supply contracts initially approved by the Board of County Commissioners up to the cumulative maximum of 110% of the initial contract amount.

A.2. This approval authority also extends to term and supply contracts initially approved by the Purchasing Manager.

B. All other change orders in accordance with the Purchasing Policy. See Section 110.155.

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## **Policy # 110.160 Unauthorized Purchases**

Any request for the purchase of goods or services, including those by lease, lease-purchase or rental, which does not conform to the provisions of any applicable federal, state, or local law, regulation or procedure, or which is not properly authorized pursuant to Board policy, shall be deemed to be unauthorized by Johnson County. Unauthorized purchases may be rejected by the County or other actions may be taken pursuant to Board policies or the Purchasing Procedures established by the County Manager.

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## **Procedure # 110.160 Unauthorized Purchases**

A. Any request for the purchase of goods or services, including those by lease, lease-purchase or rental, which does not conform to the provisions of any applicable federal, state, or local law, regulation or procedure, shall be deemed to be unauthorized by Johnson County and will be brought to the attention of the appropriate agency, department or office director by the Purchasing Office.

B. In bringing the unauthorized request to the attention of the appropriate director, the Purchasing Office will work with the user department to bring the request into compliance with applicable laws, regulations or procedures. If it is not possible to bring the request into compliance, or if the actions required to bring the request into compliance are unacceptable to the appropriate director, the Purchasing Office will, upon written authorization of the County Manager, process the request as submitted and issue a purchase order to complete the transaction.

C. The shipment of goods and services to locations other than County places of business or authorized County work sites shall be prohibited.

### D. Store Accounts

D1. Store accounts are not permitted unless such accounts have been previously approved by the County Purchasing Manager. All requests for new store accounts should be sent directly to the Purchasing Manager for consideration. Store accounts are not to be opened or used until approval is granted.

D2. Store accounts are defined as accounts with specific stores that permit County employees to charge the purchase of goods or services simply by signing their name or in some cases with only verbal purchase authority. These accounts may or may not include an actual “store credit card”.

D3. The appropriate method of acquiring goods and/or services on behalf of the County is through the use of the County Purchasing Card or a purchase order. These methods are directed by specific purchasing card guidelines and purchasing policies and procedures. They also have appropriate safeguards and tracking capabilities built in for the protection of both the County and the employee.

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## **Policy # 110.165 Competitive Procurements**

The County will obtain goods and services under a system of competitive procurement. This is a system in which multiple willing and able firms may compete openly, equally and non-restrictively for the opportunity to provide goods or services to the County. This system shall provide for maximum competition to affect maximum cost savings and value for tax dollars spent. Unless otherwise authorized by the Board of County Commissioners or these policies, open and competitive procurement is required for all supplies, materials, equipment and contractual services whose cost is estimated to be \$10,000.00 or more. Open and competitive procurement is required for professional services whose cost is estimated to be \$50,000.00 or more. Competitive procurement practices shall include quotations, informal bids, formal bids, requests for proposals or other established methodologies, which shall be utilized pursuant to the Purchasing Procedures established by the County Manager.

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## **Procedure # 110.165 Competitive Procurements**

A. Competition is the defined process in which multiple willing and able firms compete openly, equally and non-restrictively to supply equivalent goods or services to the County. The County seeks to maximize competition within the competitive procurement process to effect cost savings and to provide more value for the tax dollar. When a department reasonably anticipates that annual aggregate totals for specific goods or services may exceed the limits defined by these purchasing procedures, Purchasing should be contacted for the purpose of establishing a Term and Supply contract.

B. Open and competitive procurement is required for all supplies, materials, equipment and contractual services whose cost is estimated to be \$10,000.00 or more. Open and competitive procurement is required for professional services whose cost is estimated to be \$50,000.00 or more.

B.1. QUOTATIONS are written or verbal statements of prices, terms of sale and description of goods or services offered to the County by a prospective contractor. Quotations from multiple firms shall be used as documentation of purchases with a cost of at least \$10,000.00 but less than \$50,000.00. All quotations obtained by user departments for such purchases from \$10,000.00 to \$49,999.99 require competitive written quotations. Quotations from \$10,000 to \$24,999.99 may be submitted in tabulated form.

B.1.a. While user departments are authorized to obtain the competition for the above stated purchases, the validation of the competition is the responsibility of the Purchasing Division and the authority for awarding the contract resides with the Purchasing Manager.

B.1.b. The County's official bidding documents used by the Purchasing Office to solicit informal and formal bids/RFPs should not be utilized by user departments to obtain competition for this, or any other category of purchases unless the proposed bidding documents have been reviewed and approved by the Legal Department. Use of the County's official bidding documents for quotation purposes would confuse vendors and could lead to contractual commitments that would violate the County's purchasing procedures.

B.2. INFORMAL BIDS are written documents issued by the Purchasing Office similar to formal bids (see below), with the exceptions that neither public notice nor a stated period of time between bid invitation and bid opening are required. Informal bids may be used to document competition for procurements with an estimated cost of less than \$50,000.00 or for other procurement situations requiring expedited or unusual handling at the discretion of the Purchasing Manager.

B.3. FORMAL BIDS are written documents issued by the Purchasing Office, inviting potential contractors to submit sealed, written pricing for specific goods and services in conformance with specifications, terms, conditions and other requirements described in the bid invitation documents. Formal bids require public notice (legal publication), public bid opening at a time and place designated in the bid document, and a minimum of ten (10) working days between publication of the bid invitation

and bid opening. Formal bids shall be utilized to document procurements of goods and contractual services with an estimated project cost of \$50,000.00 or more.

B.4. REQUESTS FOR PROPOSALS (RFPs) are written documents issued by the Purchasing Office inviting potential contractors to submit sealed proposals for specific professional and other services in conformance with the scope of services, terms, conditions and other requirements described in the RFP documents. RFPs for professional services \$100,000.00 and greater will require formal, publicly advertised competition and the award of any resultant contract will require approval by the Board of County Commissioners or the appropriate governing board. RFPs for professional services \$50,000.00 and greater up to less than \$100,000.00 will not require formal, publicly advertised competition, but will require informal proposal solicitations from a minimum of three qualified respondents. Formal RFPs require public notice (legal publication), public proposal opening at a time and place designated in the proposal document and a minimum of ten (10) working days between publication and proposal opening. RFPs will not be required for professional services for (1) an approved vendor under a Term and Supply contract and (2) with approval of the Purchasing Manager will not be required for second or later phases of a project for which the original services were obtained through an RFP.

B.4.a. The County's RFP process is usually a two-step process. The first step consists of an Evaluation Committee scoring all responsive proposals. This scoring is determined by allocating points totaling 100, which are assigned to evaluation criteria similar to the following.

- Firm Experience performing similar work
- Key staff or Firm personnel experience
- Responsiveness to the RFP
- Applicable resources
- Project understanding/approach

The Evaluation Committee or department representative prior to opening of proposals shall assign the weights given each category. Each Evaluation Committee member will provide a numerical score. Following the tabulation of numerical scores, each member's set of scores will be ordered by the Purchasing Administrator as to first choice, second choice and so on according to the point scores from that member. To determine the finalists, one point will be assigned for first choice, two points for second choice and so on. Choice points of all members will be added together and the firms receiving the lowest choice point totals will be short listed for the interview/cost proposal phase of the RFP. In some circumstances, interviews may be waived with mutual consent of the Purchasing Administrator and the Evaluation Committee. In the case where interviews are waived, the Purchasing Administrator will request cost proposals from top ranked respondents. Cost points will be calculated and then added to the original proposal points. Using these new totals the Purchasing Administrator will rank vendors by assigning one point for first choice, two points for second and so on. The rankings of all members will be added together and the firm receiving the lowest choice point total after the inclusion of cost points will be selected to begin negotiations with the County.

B.4.b. The finalist firms invited to participate in step two shall be the highest scoring respondents on the initial proposals. Points from the initial proposal do not carry forward to the interview step. Invited firms shall be interviewed by the Evaluation Committee and shall provide a sealed fee/cost proposal prior to the interview. The fee/cost proposals will not be opened until after the committee has completed the qualifications evaluation of the interviewees.

Finalist firms shall be independently evaluated by each Evaluation Committee member based on points totaling 100. Points are assigned to criteria similar to the initial proposal evaluation. Criteria are to be established by the Evaluation Committee or Department Representative prior to opening of proposals. Fee proposals will be weighted from 10 to 30 points (10% to 30% of the total) as deemed appropriate for the project. The Evaluation Committee will determine the weight of the fee/cost proposal in advance of proposal opening. Fee/cost proposals shall not be opened until all of the technical/qualification evaluations are completed. The Purchasing Administrator coordinating the RFP will open the fee/cost proposals after all evaluations are turned in, signed and dated by each Evaluation Committee member. The Purchasing

Administrator will then compute the cost proposal points for each finalist firm and enter those points on each firm's respective interview score sheet. Fee/cost proposal points shall be determined by awarding maximum points to the lowest fee/cost proposal. Fee/cost points for firms other than the lowest will be determined by dividing the lowest proposed cost by other cost proposals being scored, and then multiplying this result times the maximum cost points. The resultant points will then be added to the appropriate firms' total.

B.4.c. The RFP process may be modified to allow for cost to be requested as part of the original proposal with Purchasing Division approval. This may be necessary for different products or services acquired for grants or other projects. The RFP process may also be modified to be in compliance with State or Federal requirements.

Following the interviews and addition of fee/cost proposal points to each Evaluation Committee member's score sheet, each member's set of scores will be ordered by the Purchasing Administrator as to first choice, second choice and so on according to the point scores from that member. To determine the selection, one point will be assigned for first choice, 2 points for second and so on. Choice points of all members will be added together and the firm receiving the lowest choice point total will be selected. In the case of a tie, interview scores without cost proposal points added will be ranked in the same manner as above and the firm with the lowest overall ranking without cost will be selected. If after these rankings are calculated there is still a tie, the firm with the lowest fee/cost proposal will be selected. If there is still a tie, the selected firm will be decided by drawing lots. The long straw drawn will be the firm selected. The Purchasing Manager and the Purchasing Administrator will conduct a drawing.

The Evaluation Committee members will be asked to comply with the County Code of Ethics Standard 1101: An official whether elected or appointed and an employee in government service should never act upon any matter in which they, their family, or business has or may have any financial or beneficial interest; and should always declare and disclose the full nature and extent of any personal, family or business interests in any matter related to governmental actions or duties.

**B.5.REVERSE AUCTION ELECTRONIC BIDDING.** Unless otherwise prohibited by Kansas statutes or BOCC policy, the County may utilize reverse auction electronic bidding for the purchase of selected goods or materials whereby bidders are invited to bid on specific goods or materials through real-time electronic bidding, with the award being made to the lowest responsible and responsive bidder. During the bidding process, bidders' prices are revealed and bidders shall have the opportunity to modify their bid prices for the duration of time specified for the electronic reverse auction event. The reverse auction process will utilize a third party reverse auction bidding service to facilitate the on-line auction event. Reverse auctioning shall not be used for the acquisition of any services for construction projects or for the acquisition of any other services. All bids submitted under the reverse auction electronic procurement process shall be subject to the open records act. Reverse auctions may be held at the discretion of the County Purchasing Manager with concurrence of the department. Reverse auctions may be used only for purchase of goods or materials with an estimated cost of \$50,000 or more.

B.5.a. Activities prior to the reverse auction electronic bidding event:

1. Prior to the reverse auction event, discussion and agreement would take place between the Purchasing Division and the department regarding the viability of the use of the reverse auction procurement process for the transaction in question.
2. The Purchasing Division would contact the third party Reverse Auction Contractor to schedule the reverse auction event.
3. The Purchasing Division would issue an Invitation for Bid which would include an announcement stating that the County will use an electronic reverse auction to obtain pricing and including pertinent information in the Invitation for Bid regarding the reverse auction event. The Invitation for Bid will be advertised in the same manner as the traditional paper bid.

B.5.b. Activities the day of the reverse auction electronic bidding event:

1. The Purchasing Division will set up a conference room as a central viewing station for all interested parties. Outside communication would not be permitted in the conference room during the event and attendees would be prohibited from leaving the room prior to conclusion of the event.
2. The Purchasing Administrator managing the event for the County will establish a telephone link with the third party Reverse Auction Contractor.
3. Interested bidders will log onto the computer website hosted by the Reverse Auction Contractor during the time period specified in the Invitation to Bid.
4. At the appointed hour, the reverse auction event will begin.
5. Bids are registered on-screen as the bidder submits an opening bid by the appointed deadline. The bidder must submit an opening bid by such deadline to be considered, but is under no obligation to modify that opening bid.
6. Bidding activity continues until the conclusion of the planned auction event, including any extended bidding period(s) thereof, as specified in the Invitation to Bid. Extended period(s) of the bidding activity would be allowed as long as the competitive bidding continues.
7. When the auction reaches the "final minutes" of the bidding period, or any extended bidding period(s) thereof, as specified in the Invitation to Bid, any bid received that creates a new lowest bid will extend the auction until such time as no bids are placed during the final minutes of the specified bidding period, or any extended bidding period(s) thereof, or if the auction is ended by the Purchasing Administrator managing the event for the County.
8. If technical problems should occur during the event, bidders would be provided a toll free telephone number to allow for off-site assistance from the Reverse Auction Contractor. If no immediate technical solution can be found, a representative from the Reverse Auction Contractor will enter pricing by proxy from its command center.
9. If bidders do not have internet access at their work location, they may access the event at libraries, schools, home or anywhere internet access is available.

B.5.c. Activities after the reverse auction electronic bidding event has concluded:

1. An auction summary/tabulation would be provided following conclusion of event.
2. If the winning bid is both responsive and responsible and within budget, the department with assistance from the Purchasing Division may proceed to contract with the winning bidder.
3. If no bids submitted are deemed acceptable the Purchasing Division may reject all bids without penalty

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### **Policy # 110.170 Exemptions from Policy**

The County will exempt from the competitive procurement process, purchases and expenditures of County funds that are not readily adaptable to the competitive procurement and purchase order processes. These purchases are exempt from the provisions of the Purchasing Policy due to express statutory or legislative provisions that govern acquisition of those particular goods or services or due to reasons deemed appropriate by the Board of County Commissioners. All exemptions from the County purchasing policy must be approved by the Board of County Commissioners, unless otherwise exempt pursuant to these policies or by Kansas statute now or hereinafter enacted.. Exemptions from these Purchasing Policies include the following:

1. Sale of temporary notes and bonds, including related fees
2. Investment of temporarily idle County funds;
3. Employee Compensation;

4. Employee benefits, including but not limited to, premiums for health, life or disability insurance, including self-insured plans; payments to pension or deferred compensation plans; employment or payroll taxes;
5. Insurance claims, losses and loss adjustment expenses, including payments for policy deductibles, retained losses and self-insured workers' compensation losses. Fees for service paid to agents, brokers or third party administrators, however, are NOT exempt;
6. Witness and juror fees;
7. Interfund transfers and reimbursements;
8. Employee reimbursements;
9. Arbitrage and debt service payments;
10. Lease payments to the Public Building Commission;
11. Payment of local utility services for County owned or operated facilities, unless desired for the encumbrance of funds in the County's accounting system;
12. Items purchased in accordance with the Purchasing Card Policy; and
13. Check requests.

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### **Procedure # 110.170 – Exemptions from Policy and Procedures**

A. Certain purchases and expenditures of County funds are not readily adaptable to the competitive procurement and purchase order processes. These purchases will be exempt from the provisions of the Johnson County purchasing policy and procedures by virtue of other statutory or legislative provision for the acquisition thereof. Exceptions for these transactions are specifically identified in this section so as to preclude possible misinterpretation of the requirements for exemption.

B. The following are exemptions from the purchasing policy and procedures and may not require the issuance of a requisition and purchase order:

B.1. Sale of temporary notes and bonds, including related fees.

B.2. Investment of temporarily idle County funds.

B.3. Employee compensation.

B.4. Employee benefits, including but not limited to; premiums for health, life or disability insurance, including self-insured plans; payments to pension or deferred compensation plans; employment or payroll taxes.

B.5. Insurance claims, losses and loss adjustment expenses, including payments for policy deductibles, retained losses and self-insured workers' compensation losses. Fees for service paid to agents, brokers or third party administrators, however, are NOT exempt.

B.6. Witness and juror fees.

B.7. Interfund transfers and reimbursements.

B.8. Employee reimbursements.

B.9. Arbitrage and debt service payments.

B.10. Lease payments to the Public Building Commission.

B.11. Payment of local utility services for County owned or operated facilities, unless desired for the encumbrance of funds in the County's accounting system.

B.12 Items purchased in accordance with Purchasing Card Policy.

B.13. Check requests.

C. Any agency, department or office seeking exemption from the purchasing policy and procedures shall prepare a written request detailing the specific nature of the transaction to be exempted, the statutory or legislative basis for the exemption, and the alternative procedure which will be utilized for the purchase or expenditure. The request will be addressed to the County Manager, who will review the request and schedule it for action by the Board of County Commissioners. All exemptions from the County purchasing policy and procedures will be approved by the Board of County Commissioners.

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### **Policy # 110.175 Exemptions from Competition**

The County may waive the competitive procurement process and exempt qualified purchases from competition. An exemption from competition is authorized for specific procurements by statutory citations, including:

1. Sheriff's Department covert vehicles and equipment (K.S.A. 45-221(a)(5));
2. Contracts for mental health services or services for the mentally retarded between a governing board and a nonprofit corporation providing such services (K.S.A. 19-4007);
3. Acquisition of library materials for the direct use and benefit of the public (K.S.A. 12-1225(c));
4. Printing of ballots for all elections under the jurisdiction of the Johnson County Election Commissioner (K.S.A. 19-3424(d)).

Other categories of purchases are exempt from competition under this Policy due to the nature of the goods or services being acquired, and include the following:

1. Seminar registrations, training classes, professional conferences, subscriptions and professional membership dues and fees;
2. Purchase of local utility services for County owned or operated facilities;
3. Utility relocation payments;
4. Postage expense, when billed by a vendor at the currently prevailing postage rates established by the U.S. Postal Service;

5. Equipment maintenance or service agreements when purchased from the original equipment supplier, if such maintenance may only be obtained from the original supplier or if obtaining it from another supplier would result in voiding of warranties;
6. Procurement publications used to reach specific markets.
7. Construction-related licenses and permits;
8. Construction and related services that may only be performed by a railroad company;
9. Purchase of land and land rights, rights of way and easements; and
10. Purchase of existing real property.
11. Litigation Expense Services retained through Chief Counsel.

These procurements, although exempt from competition, are still subject to the purchase order process, and must be processed in accordance with the applicable Purchasing Procedures.

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### **Procedure # 110.175 – Exemptions from Competition**

A. The following procurements are exempt from the competitive procurement process by virtue of specific statutory citation:

A.1. Sheriff's Department covert vehicles and equipment (K.S.A. 45-221[a][5]).

A.2. Contracts for mental health services or services for the mentally retarded between a governing board and a nonprofit corporation providing such services (K.S.A. 19-4007).

A.3. Acquisition of library materials for the direct use and benefit of the public (K.S.A. 12-1225[c]).

A.4. Printing of ballots for all elections under the jurisdiction of the Johnson County Election Commissioner (K.S.A. 19-3424[d]).

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### **Policy # 110.180 Exceptions to Competition**

The County may waive the competitive process and authorize an exception to competition for certain situations and circumstances that do not lend themselves to the competitive process or where competition may not be available. Exceptions may be made for:

1. Emergency procurement situations which are defined as circumstances in which either critical County operations will be severely affected in an adverse manner unless immediate action is taken to remediate the situation or in which a disaster creates a threat to public health, welfare or safety;
2. Sole source procurements;
3. Procurements of goods or services which are available from or through other governmental entities, including joint construction projects authorized by intergovernmental agreement and when the other governmental party to said agreement is administering the project;
4. Exact replacement of a components, parts or sub-assemblies when exact replacement is necessary to avoid excessive modifications to operating systems; and

5. Other documented and justified circumstances approved by the County Manager.

All exceptions to competition must be specifically authorized and approved – by the County Manager if the procurement is less than \$100,000.00, or by the Board of County Commissioners if the procurement is \$100,000.00 or more.

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### **Procedure 110.180 Exceptions to Competition**

A. The competitive procurement process may be waived for:

A1. Emergency procurement situations which are defined as circumstances in which either critical County operations will be severely affected in an adverse manner unless immediate action is taken to remediate the situation or in which a disaster creates a threat to public health, welfare or safety. Emergency procurement situations as defined in this Procedure differ from County declared emergencies.

a. The Board of County Commissioners, County Manager or any agency, department or office director may declare an emergency procurement situation as defined above and make immediate purchases of materials, equipment or services with or without benefit of the competitive purchasing process.

b. Emergency purchases made in accordance with this procedure will be documented in writing by the person declaring the emergency situation and submitted to the Purchasing Office with an emergency purchase form which will be reviewed by the Purchasing Manager and sent to the County Manager for approval if the procurement is less than \$100,000, or to the BOCC if \$100,000 or more.

c. Certain purchases not meeting the criteria for an emergency procurement under this procedure, but which may be deemed as urgent, will be expedited and approved by the Purchasing Office, upon notification of such circumstance and submission of a requisition. In such circumstances, the Purchasing Office may elect to secure informal competition rather than formal bids to respond to any extenuating circumstances.

A.2. Sole source procurements:

a. A sole source purchase is an award of contract for goods or services to the only known source for the required goods or service, occasioned by the unique nature of the requirement, the vendor, the impracticality of obtaining competition or market conditions. A sole source cannot be justified on the basis of quality or price, as quality can be a subjective evaluation based on individual opinion, and price considerations must be evaluated by competitive bidding. If there is more than one product or service that will perform essentially the same functions under essentially the same conditions as the requested product or service, a sole source is deemed not to exist. Sole source purchases shall be re-evaluated at least annually.

b. A sole source purchase may be requested by County agency, department or office directors by forwarding a completed Sole Source Request Form to the Purchasing Office. It is the responsibility of the requestor to fully justify the requested sole source purchase.

c. The Purchasing Office will review the sole source request and provide the County Manager with a written opinion as to the validity of the sole source.

d. The County Manager, upon review of the request and the opinion furnished by the Purchasing Office, is authorized to approve the purchase if the aggregate cost of the request is less than \$100,000.00.

e. If the aggregate cost of the sole source request is \$100,000.00 or greater, the County Manager will forward the request to the Board of County Commissioners for approval.

f. The Purchasing Office, in cooperation with legal counsel and the user department, may elect to negotiate the prices, terms of sale and other considerations with any approved sole source provider.

A.3. Procurements of goods or services which are available from or through other governmental entities, including joint construction projects authorized by intergovernmental agreement and when the other governmental party to said agreement is administering the project.

A.4. Exact replacement of a components, parts or sub-assemblies when exact replacement is necessary to avoid excessive modifications to operating systems, and it is determined by the Purchasing Manager that the component, part or sub-assembly is only available through a single, authorized distributor

A.5. Seminar registrations, training classes, professional conferences, subscriptions and professional membership dues and fees.

A.6. Purchase of local utility services for County owned or operated facilities.

A.7. Utility relocation payments.

A.8. Postage expense, when billed by a vendor at the currently prevailing postage rates established by the U. S. Postal Service.

A.9. Equipment maintenance or service agreements when purchased from the original equipment supplier, if such maintenance may only be obtained from the original supplier or if obtaining it from another supplier would result in voiding of warranties.

A.10. Publications used to reach specific markets.

A.11. Construction related licenses and permits.

A.12. Construction and related services that may only be performed by a railroad company.

A.13. Purchase of land and land rights, rights of way and easements.

A.14. Purchase/lease/rental of existing real property.

A.15. Insurance Coverage where the competition for, and acquisition of, is acquired through authorized agents, broker or third party administrators (TPA).

A.16. Other documented and justified circumstances approved by the County Manager, if the procurement is less than \$100,000.00, or by the Board of County Commissioners if the procurement is \$100,000.00 or more.

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## **Policy # 110.185 Negotiations**

The Purchasing office, in cooperation with the affected County departments, may negotiate the specific terms and conditions for the procurement of goods and services in the following:

1. Defined emergency procurement situations;
2. Sole source purchase, duly documented and approved;
3. Proprietary items;
4. Extension of existing contracts;
5. Final scope of services, compensation and certain contractual elements resulting from Requests for Proposals (RFPs).

No negotiations are allowed in the formal bid process prior to contract award.

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## **Procedure 110.185 Negotiations**

A. The Purchasing Office, in cooperation with the user department, may negotiate the procurement of goods or services in the following instances:

- A.1. Defined emergency procurement situations.
- A.2. Sole source purchases, duly documented and approved.
- A.3. Proprietary items.
- A.4. Extension of existing contracts. Contract Extensions may be granted under certain documented and justified conditions and approved by the County Manager if under \$100,000 or by Board of County Commissioners if \$100,000 or greater.
- A.5. Final scope of services, compensation and certain contractual elements resulting from Requests for Proposals (RFPs).

B. No negotiations are allowed in the formal bid process prior to contract award.

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## **Policy 110.190 Consolidation of Requirements**

The Purchasing Office may consolidate the requirements of several departments to achieve sufficient volume to acquire the most favorable pricing for goods and services acquired through the competitive process.

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## **Procedure 110.190 Consolidation of Requirements**

A. Term and supply contracts are established by the Purchasing Office, predominately through the competitive sealed bidding process, for the provision of goods and services commonly required by one or more County departments. These contracts, featuring pre-determined vendors, terms and conditions, and favorable, consolidated pricing, allow departments to utilize their personnel to accomplish other departmental duties by reducing the necessity for those personnel to perform separate, redundant and conflicting procurement activities. Term and supply contracts will be utilized whenever the contract goods and services are appropriate

to the needs of the user department, unless the purchase qualifies as an exemption as defined in Purchasing Procedures.

B. Blanket purchase agreements may be established by Purchasing for departments utilizing term and supply contracts to facilitate order placement. Blanket purchase agreements (BPA's) should be used when departments purchase goods or services, from Term and Supply contracts that require numerous orders/shipments over a period of time.

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### **Policy 110.195 Cooperative Procurements**

The Purchasing Office may elect to participate with other governmental entities in the cooperative procurement of goods and services. Cooperative contracts are derived from the combining of the requirements of two or more political entities to achieve the volume necessary to obtain the most favorable pricing.

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### **Procedure 110.195 Cooperative Procurements**

Cooperative procurements are the combining of the requirements of two or more political entities to obtain the advantages of volume purchases, improved specifications, reduced administrative costs, and increased intergovernmental cooperation. The Purchasing Manager may elect to participate with other governmental entities in cooperative procurements of goods and services. The Purchasing Manager may also elect to participate in cooperative procurements of goods and services with organizations holding tax exempt status under I.R.S. Section 501 (c)(3).

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### **Policy 110.200 Purchase Orders**

The purchase order serves as an official legal document between the County and a contractor for goods and/or services. The purchase order may be used separately or in conjunction with other documents and delineates the responsibilities of both parties in the provision of goods and/or services required by the County. The purchase order is required for all procurements except those which are exempt under provisions of these Policies.

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### **Procedure 110.200 Purchase Orders**

A. A purchase order serves as an official legal document between the County and a contractor for goods and/or services. It may be issued separately or in conjunction with other documents. The purchase order delineates the responsibilities of both parties in the provision of and payment for goods and services required by the County. The purchase order also is the mechanism by which budgetary and cash balances are encumbered in the County's accounting system.

B. Issuance of a purchase order to confirm the legal contract between the County and a contractor, and to encumber cash and budgetary balances, is required, unless specifically exempted herein, for all procurements of goods and services.

C. Issuance of a purchase order is generally not required for exemptions referenced in Section 110.170.

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### **Policy 110.205 Vendor Relationships**

It is essential to the success of the County to develop and maintain goodwill with its suppliers of goods and services, and to establish and maintain relationships based upon fairness and governmental ethics.

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### **Procedure 110.205 Vendor Relationships**

A. It is essential to develop and maintain goodwill between the County and its suppliers. The reputation of the County can be enhanced and promoted by:

- A.1. Giving all salespersons a full, fair, prompt and courteous hearing
- A.2. Keeping competition open and fair
- A.3. Keeping specifications fair, accurate and clear
- A.4. Maintaining consistent buying policies and principles
- A.5. Observing strict truthfulness in all transactions and correspondence
- A.6. Respecting the confidence of the salesperson or the company in regard to confidential or proprietary information
- A.7. Keeping free from any obligation to any vendor.

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### **Policy 110.210 Purchases from County Employees**

Purchases of goods or services from County employees are prohibited. This includes any business in which a County employee or his/her family has or may have any financial interest or benefit except when specifically authorized by resolution by the Board of County Commissioners or during emergency situations.

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### **Policy 110.215 Protests by Vendors**

Vendors or potential vendors who do not agree with the conditions, specifications or scope of services or other requirements contained in any procurement, whether by bid or request for proposal shall be afforded the opportunity to protest the solicitation. Bidders or respondents who do not agree with the County's recommendation for bid or RFP award shall be afforded the opportunity to protest the recommendation. The County Manager shall establish procedures for vendor protests, including an appeal before the Board for any protest related to a procurement that would exceed \$50,000.00.

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### **Procedure 110.215 Protests by Vendors**

A. Potential bidders who do not agree with the conditions, specifications or scope of services, or other requirements contained in any bid or RFP shall be afforded the opportunity to protest the solicitation.

- A.1. Protests of any bid or RFP solicitation must be submitted to the Purchasing Office within the time frame stated in the bid/RFP documents in order to be considered.
- A.2. The Purchasing Manager, in consultation with the user department and the Legal Services Office, shall determine the appropriate method of response to the petitioner.

B. Bidders or respondents who do not agree with the County's recommendation for bid or RFP award shall be afforded the opportunity to protest the recommendation by submitting written notice to the Purchasing Manager.

B.1. Such notice must be given within five working days of the date the petitioner could reasonably be expected to have known of the County's recommendation.

B.2. Protests made after formal award of a bid or proposal shall not be allowed.

B.3. Bids or proposals not meeting the minimum published requirements (including specifications and/or scope of service) are not subject to protest.

C. The Purchasing Manager shall prepare and submit written determination to the County Manager recommending either approval or disapproval of the petition. The petitioner shall be furnished a copy of the written determination and recommendation.

D. The County Manager shall review and either approve or disapprove the recommendation of the Purchasing Manager. The petitioner shall be furnished a copy of such action.

D.1. The County Manager may employ any reasonable means to reach a decision on the petition.

D.2. If the aggregate value of the award under protest is less than \$50,000.00, the decision of the County Manager shall be final.

E. If the aggregate value of the award under protest is \$50,000.00 or more, and the petitioner desires to protest the decision of the County Manager, the petitioner shall address written protest of the decision to the County Manager.

E.1. The County Manager shall schedule the protest for Board of County Commissioners review and decision.

E.2. The decision of the Board of County Commissioners shall be final.

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### **Policy 110.220 Suspension or Debarment of Vendors**

Johnson County may suspend or debar a vendor or potential vendor from participation in County purchasing opportunities and practices upon a showing of just cause, and during the period of suspension or debarment, the County shall reject any bid, proposal or other offer by the vendor and shall return any submission to the suspended/debarred vendor.

Just cause for suspension of a vendor shall include:

1. Failure to comply with the conditions, specifications or terms of a bid or proposal or contract with the County including a recent record of unsatisfactory performance in accordance with the terms of one or more contracts;
2. Commission of any misrepresentation in connection with a bid or proposal;

3. Charged by a court or competent jurisdiction with the commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract. If charges are dropped or the vendor found not guilty, the suspension shall be lifted automatically upon notification and proof of final court disposition provided to the County by the vendor;
4. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or honesty which currently, directly and seriously affects that vendor's responsibility as a County supplier. If charges are dismissed or the vendor found not guilty, the suspension shall be automatically lifted upon written notification and proof of final court disposition provided to the County by the vendor;
5. Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;
6. Vendor becomes insolvent, has proceedings in bankruptcy instituted against it or consolidates its debts or assigns over its estate or affects for payment thereof or has a receiver appointed over its property; and
7. Any other cause the department, County Manager or Purchasing Manager determines to be so serious or compelling as to materially and adversely affect the responsibility of the business as a government contractor, including but not limited to suspension by another government entity for substantial cause.

Just cause for debarment shall include:

1. Failure to fully comply with conditions, specifications, drawings, schedules or terms of a bid, proposal or contract with the County;
2. Conviction by or judgment obtained in a court of competent jurisdiction for commission of offenses in connection with the vendor's commercial enterprise. If the conviction is reversed through the appellate process, the debarment shall be immediately lifted upon written notification and proof of final court disposition to the County from the vendor;
3. Conviction for the commission of any fraud or act of collusion in connection with a bid, quotation, proposal or other act incident to doing business with the County; and
4. Inclusion on Federal debarred vendor list.

The County Manager shall establish Purchasing Procedures, consistent with this Policy, for the suspension and/or debarment of vendors, including a procedure for an appeal to the County Manager of any suspension or debarment action.

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### **Procedure 110.220 Suspension or Debarment of Vendors**

A. The County Purchasing Manager at the direction of the County Manager may suspend or debar for cause the right of a vendor to be included on County bid lists and any subsequent bids or proposals during the tenure of the suspension or debarment from that vendor shall be rejected by the County and returned to the suspended/debarred vendor unopened.

B. Suspension – A vendor may be suspended for any of the reasons that follow:

B.1. Failure to comply with the conditions, specifications or terms of a bid or proposal or contract with the County including a recent record of unsatisfactory performance in accordance with the terms of one or more contracts.

B.2. Commission of any misrepresentation in connection with a bid or proposal.

B.3. Charged by a court of competent jurisdiction with the commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract. If charges are dropped or the vendor found not guilty, the suspension shall be lifted automatically upon notification and proof of final court disposition provided to the County by the vendor.

B.4. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or honesty which currently, directly and seriously affects that vendor's responsibility as a County supplier. If charges are dismissed or the vendor found not guilty, the suspension shall be automatically lifted upon written notification and proof of final court disposition provided to the County by the vendor.

B.5. Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals.

B.6. Vendor becomes insolvent, has proceedings in bankruptcy instituted against it or consolidates its debts or assigns over its estate or affects for payment thereof or has a receiver appointed over its property.

B.7. Any other cause the department, County Manager or Purchasing Manager determines to be so serious or compelling as to materially and adversely affect the responsibility of the business as a government contractor, including but not limited to suspension by another government entity for substantial cause.

#### C. Debarment

C.1. Failure to fully comply with conditions, specifications, drawings, schedules or terms of a bid, proposal or contract with the County.

C.2. Conviction by or judgment obtained in a court of competent jurisdiction for commission of offenses in connection with the vendor's commercial enterprise. If the conviction is reversed through the appellate process, the debarment shall be immediately lifted upon written notification and proof of final court disposition to the County from the vendor.

C.3. Conviction for the commission of any fraud or act of collusion in connection with a bid, quotation, proposal or other act incident to doing business with the County.

C.4 Inclusion on Federal debarred vendor list.

D. Purpose of Suspension or Debarment - The County shall solicit offers from, award contracts to and consent to subcontracts only with vendors known to be reliable, ethical and responsible. To that end, the suspension or debarment of vendors from County work that do not meet these criteria may be undertaken. The serious nature of suspension or debarment requires that such sanction be imposed only when it is in the best interest of the public and for the protection of the County and not for purposes of punishment.

E. Effects of Suspension and Debarment — Suspended or debarred vendors are excluded from contracts and departments or agencies shall not solicit offers from, award contracts to or consent to subcontracts with these vendors. Such vendors are also excluded from conducting business with the County as agents, representatives, subcontractors or partners with other vendors.

F. Continuation of Current Contracts –

F.1. The suspension or debarment shall take effect in accordance with the notice provided by the Purchasing Manager, except that if a department continues contracts or subcontracts in existence at the time the vendor was suspended or debarred, the suspension or debarment period shall commence upon the conclusion of that contract and in the interim the vendor shall not enter into any new County contracts.

F.2. Departments may not renew or otherwise extend the duration of current contracts or consent to subcontracts with suspended or debarred vendors unless the County determines that an emergency exists justifying the renewal or extension.

G. Suspension or Debarment Procedures –

G1. Investigation and referral. The department or agency using a specific vendor shall promptly investigate and prepare a written report concerning a proposed suspension or debarment. This report shall be forwarded to the County Manager stating with specificity the facts supporting the request for suspension or debarment.

G2. Within five (5) days of receipt of the department or agency request, the County Manager, after reviewing the report, may direct the Purchasing Manager to issue a notice of suspension or debarment. The Purchasing Manager shall immediately advise the vendor by certified mail with return receipt requested. The letter will contain the following specific information:

G.2.a. Statement that suspension or debarment has been imposed by the County effective upon receipt.

G.2.b. Detailed information as to the reason and causes for the suspension or debarment in terms sufficient that the vendor will understand the conduct or transaction(s) upon which the action is based.

G.2.c. The vendor may within twenty (20) days of notice, present a written request for reconsideration including additional information relating to the reason given in G2a for suspension or debarment. The Purchasing Manager, in consultation with the Legal Department shall consider such additional information in deciding whether the decision to suspend or debar should be delayed or revised. If the original decision to suspend or debar is determined to be proper and justified, the vendor shall be suspended or debarred as planned.

### G.3 Suspension/Debarment Duration

G.3.a. Suspension – A vendor may be suspended for a minimum period of six (6) months if they are believed to be involved in any of the activities listed in Section 110.220.B.

G.3.b. Debarment – A vendor may be debarred for a period not to exceed five (5) years if after investigation, they are found to be engaged in any of the activities listed in Section 110.220.C.

H. Appeal of Suspension or Debarment - Because circumstances that led to a suspension or debarment can change over time, a suspended or debarred vendor may at any time during the suspension or debarment period, appeal to the County for reinstatement to the status of active vendor.

H.1. The term of suspension or debarment shall last until the County reinstates the vendor either due to the suspension or debarment period having elapsed or due to an accepted appeal of the period of suspension or debarment.

H.2. A vendor wishing to be reinstated to the status of active vendor shall submit a written request to the County Manager and shall include a minimum of two references from other entities with whom they have successfully conducted business since being suspended or debarred by the County. The written appeal shall include specifics as to why the vendor believes they should be reinstated including details as to how circumstances have changed since the suspension or debarment was imposed by the County.

H.3. If, in the view of the County Manager, there is reasonable justification for reinstatement, the appeal application will be forwarded to the County Purchasing Manager to verify references and if substantiated, to complete the reinstatement process. The Purchasing Manager may seek advise of the Legal Department in making the final decision regarding reinstatement.

H.4. The reinstated vendor will be notified of the change in status to active vendor and the vendor will be considered for quotes, bids and proposals on goods/services solicited by the County from the date of reinstatement.

H.5. If, in the view of the County Manager, the vendor's appeal is not justified or sufficiently substantiated, the appeal may be denied and the vendor will be notified immediately. The balance of the suspension or debarment period will then be completed, unless a subsequent appeal request prior to the conclusion of the suspension or debarment is deemed to be acceptable.

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### **Policy # 110.225 Bonds**

Unless otherwise approved by the Purchasing Manager, the County will require bonds from bidders or contractors doing business with the County through the competitive procurement process. The County Manager shall establish Purchasing Procedures specifying the types of bonds required and the manner in which the bond requirements are satisfied.

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## **Procedures # 110.225 Bonds**

A. There are three major types of bonds used by the County in the competitive procurement process. Those bonds, along with their utilization, are summarized below.

A.1. Bid Bonds are used when bid security is required to ensure that the firm or individual awarded a contract will subsequently enter into contract with the County. A bid bond for projects up to \$50,000 are no longer required. This amendment would make the bid bond requirements consistent with the requirements for formal procurement and advertising for projects greater than \$50,000. NOTE: This amendment to purchasing procedure WILL NOT affect the requirements of performance and statutory bonds.

A.2. Performance Bonds are used when a guarantee is required to ensure that a firm or individual that has entered into contract with the County will complete the project within the terms of the agreement.

A.3. Labor and Material Payment Bonds (Statutory Bond) are used for all contracts exceeding \$40,000.00 entered into by the County for the purpose of making public improvement, constructing any public building or making repairs on same. The bonds are required by K.S.A. 60-1111 and insure the payment of all indebtedness incurred for labor furnished, materials, equipment or supplies used or consumed in connection with, or in or about, the construction, improvements or repairs. These bonds are issued in favor of the State of Kansas and are filed with the Clerk of the District Court.

B. The above bonds require the appointment of a Kansas resident agent and must be issued by an acceptable bonding company licensed to do business in the state of Kansas.

C. Checks or other security deposits shall not be accepted in lieu of the above bonds unless specifically approved by the Purchasing Manager, or otherwise allowed by Kansas state statute, prior to the publication and distribution of the bidding documents.

D. Bid bonds, when required, are generally written in an amount equal to five percent (5%) of the total amount bid while performance and labor and material payment bonds are normally written in an amount equal to one hundred percent (100%) of the awarded contract.

E. Construction projects established to cost \$40,000 or more require performance and statutory bonds. Requirements for a bid bond are stated above under section A.1.

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## **Policy # 110.230 Insurance**

Unless otherwise approved by the Purchasing Manager the County will require that successful bidders, through the competitive procurement process, provide certificates of insurance to assure that risks are prudently protected and the County's insurance program will not be adversely impacted losses or claims attributed to the contractor's operations, products, activities or services for the County. Insurance requirements for specific bids and proposals will be based on an assessment by the County Risk Manager. The County Manager shall establish Purchasing Procedures for ensuring that vendors, bidders, contractors, and suppliers provide adequate insurance for all business conducted for the County.

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## **Procedures # 110.230 Insurance**

A. Certificates of insurance shall be provided by the successful bidder to assure that the County's insurance program will not be called upon to respond to losses from, and that the contractor is financially capable of responding to, claims resulting from the contractor's operations, products, activities or services for the County.

B. Construction and service contractors should provide evidence of commercial general liability, workers' compensation and automobile liability coverage.

C. Professional services and environmental contractors should provide evidence of professional liability, commercial general liability, workers' compensation and automobile liability coverage.

D. The certificate of insurance shall be issued to:

Board of County Commissioners, Johnson County, Kansas  
c/o Risk Management  
Johnson County Administration Building  
111 South Cherry, Second Floor  
Olathe, KS 66061-3441

E. The certificate should evidence a thirty (30) day cancellation clause and the inclusion of the Board of County Commissioners, Johnson County, Kansas, its officers, commissions, agents and employees as additional insureds.

F. Depending on the services requested in the procurement, additional or specialty coverages or specific limits of coverage may be required at the discretion of the Purchasing Manager. The amounts and types of insurance required will be detailed in the bidding or purchase document.

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### **Policy # 110.235 Federal/State Funds**

When Federal or State grant funds are involved in competitive purchases by the County, it shall be necessary for all bidders and suppliers to comply with all applicable and pertinent Federal or State grant rules, statutes and executive orders and their implementing regulations, or other requirements as set forth in the Purchasing Procedures.

### **Procedure # 110.235 Federal/State Funds**

When Federal or State grant funds are involved in competitive purchases by the County, the IFB or RFP documents and process may be modified to meet the requirements and applicable rules of the Federal or State organization.

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### **Policy # 110.240 Tax Clearance**

The County will require a tax clearance letter from any bidder/respondent offered a contract award/renewal or purchase order which exceeds the formal bid thresholds of the County, (as defined in Policy 110.135 Authority to Purchase and Contract) and any entity participating in the CORE4 initiative, currently Jackson County, Missouri, Johnson County, Kansas, the City of Kansas City, Missouri, and the Unified Government of Wyandotte County/ Kansas City, Kansas. Such bidder/respondent must provide a tax clearance certificate for all participating entities before a contract/renewal/purchase order is issued.

A. "Tax Clearance Letter" means any written communication from an authorized official of a Local Government that states the Contractor has paid all taxes due and owing to the Local Government.

- (1) A Tax Clearance Letter issued by a Local Government shall be valid for one year from the date of issuance.
- (2) Any tax liability which is currently being protested through a Local Government's recognized legal process shall not be considered an unpaid tax liability as part of this effort and the Local Government may issue a Tax Clearance Letter to the Contractor.
- (3) "Taxes" shall include, but are not limited to: real property taxes, personal property taxes, sales and use taxes, earnings and profits taxes, business license taxes, withholdings taxes, or other debts that are regularly referred to as a "tax" by the Local Government.

Johnson County reserves the right to waive the tax clearance requirement in the event of an emergency procurement, as defined in Policy 110.180, Exceptions to Competition or other extenuating circumstances which could negatively impact the health, safety or well-being of taxpayers or County services, as defined by the County Manager.

**Procedure # 110.240 Tax Clearance**

A. A tax clearance letter shall be provided by the successful bidder/respondent to ensure compliance with the tax obligations of Johnson County, Kansas and other participating CORE4 entities. The tax clearance letters must be submitted to the county within ten (10) working days of the time said firm is notified they are the top ranked respondent or lowest, responsive, responsible bidder and dated not more than 60 days prior to any notice of intent to contract by the County. Tax clearance letters shall be submitted to TFM, Purchasing Division.

B. Tax clearance letters are required for any procurement over the formal bid thresholds.

C. Tax clearance letters are provided by the Treasury and Financial Management Department (TFM) in Johnson County, Kansas. Request for tax clearance may be made by submission of a "Tax Clearance Request Form", in person, via email, fax or on line at <http://treasurer.jocogov.org/tre/> for Johnson County. For other participating CORE4 entities contact information, check the "Vendor Resources" tab on line at <http://treasurer.jocogov.org/fin/purchasing.aspx>

D. If a respondent/bidder is unable to obtain a tax clearance from either Johnson County or another CORE4 entity, due to disputed tax liability, said respondent/bidder shall write a letter/email notifying the Purchasing Manager of such status, in lieu of the tax clearance letter within ten (10) working days of notification as the top ranked respondent or lowest, responsive, responsible bidder.



**Revision Table – Johnson Purchasing Policies**

**Revision 1, dated August 14, 2008**

Added paragraph 11 to Section 110.175 "Exemptions from Competition" to allow litigations expense through Chief Council to be exempt from competitive process. Passed by Board of County Commissioner Action in regular meeting of August 14, 2008.

**Revision 2, dated July 15, 2014**

Added Policy # 110.240 Tax Clearance



## **Revision Table – Johnson County Purchasing Procedures**

### **Revision 1, dated Feb. 23, 2006**

1. Section #110.150 Term and Supply Contract – New section added to procedures outlining a requirement to submit all purchases on Term and Supply Contracts in excess of limits specified in Section #110.135, paragraph G of Purchasing Procedures to BOCC, unless otherwise approved as part of a project.
2. Section #110.165 Competitive Procurements – Paragraph B.4.  
Revised second sentence to clarify that approval by the Board of County Commissioners or other appropriate governing board is required only for contracts resultant from an RFP not for the RFP process itself.  
Added sentence at end of paragraph to clarify that RFPs are not required for professional services for (1) an approved vendor under a Term and Supply contract or (2) for second or later phases of a project for which the original services were obtained through an RFP.
3. Section #110.165 Competitive Procurements – Paragraph B.4.a – Revision to outline a requirement to convert Evaluation Committee member numerical scores on proposals to rankings for selection of short listed firms. Also outlines adding of cost points to rankings if interviews are waived by mutual consent of Purchasing Administrator and Evaluation Committee.
4. Section #110.165 Competitive Procurements – Paragraph B.4.b – Revision to outline methods for breaking rankings ties between two or more firms after interview evaluations.

### **Revision 2, dated December 6, 2007**

- 1 Section #110.140 Contract Signature Authority – paragraph D added or designee at end of sentence. Paragraph E added or department head at end of sentence.
- 2 Section #110-160 Unauthorized Purchases – Added paragraph C regarding Shipment of goods and services to locations other than County places of business or authorized County work sites. Added paragraph D regarding the prohibition of the use of “store accounts” for purchasing of goods or services for County use.
- 3 Section #110.180 Exceptions to Competition – paragraph A.14 for existing real property added lease/rental as exception options. Previously included purchase of existing real property as only option.
- 4 Section #110-200 Purchase Orders – paragraph C corrected section reference at end of sentence to #110.170. Reference was previously incorrectly shown as Section #110.310.
- 5 Section #110.215 Protests by Vendors – paragraph B.1 changed “should to “must” regarding time frame for vendors to protest bid recommendations or awards.

### **Revision 3, dated September 19, 2008**

Added paragraph B5 to Section 110.165 “Competitive Procurements” to allow Reverse Auction Electronic Bidding.

### **Revision 4, dated May 22, 2009**

Section #110.180 Exceptions to Competition – changed paragraph A. 15 to paragraph A. 16 and added new paragraph A. 15 for insurance coverage where the competition for, and acquisition of, is acquired through authorized agents, brokers or third party administrators (TPA).

Section \$110.220 Correct section references in paragraphs G3a and G3b.

**Revision 5, Dated June 1, 2010**

Procedure #110.165, B4c – Add paragraph to address modification of the RFP process to allow cost to be requested as part of original proposal in certain situations with Purchasing Division approval.

Procedure #110.170, B – Language change from “...do not require” to “...may not require”.

Procedure #110.180, A1b – Emergency procurement situation. Added language to require Board of County Commissioner approval for procurements of \$100,000.00 or more to comply with policy statement.

Procedure #110.180, A10 – Delete word “procurement” to allow this exception to apply to all publications used to reach specific markets rather than just procurement publications.

Procedure #110.235 – Add new procedure to further define Policy #110.235, to allow IFB or RFP modification to comply with requirements and/or applicable rules of the Federal or State organizations.

**Revision 6, Dated July 17, 2011**

Procedure #110.185 A.4. - Added language to define approvals for Contract Extensions.

**Revision 7, dated July 15, 2014**

Added Procedure # 110.240 Tax Clearance