

## **GLOSSARY OF TERMS**

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The words and phrases defined in this section shall have the meanings set forth below whenever they appear in Garfield County's 2012 Procurement Code (this "Code"), unless otherwise stated. Not all of the words and phrases below, however, appear in the current version of the Code. They are nevertheless included to ensure and develop a common understanding and usage of common public procurement terminology. Questions regarding the Glossary or regarding terms that do not appear below should be directed to the Chief Procurement Officer.

**ADVERTISE** means to make a public announcement of the intention to purchase goods or services.

**AGREEMENT** has the same meaning as Contract, defined below.

**APPROPRIATION** means the authorization by ordinance or resolution of a spending limit for expenditures and obligations for specific purposes. C.R.S. § 29-1-102(1). There is an absolute prohibition against spending in excess of an appropriation. C.R.S. § 29-1-110(1). A contract requiring the expenditure of funds that have not been appropriated is void and no County money will be paid on such a contract. C.R.S. § 29-1-110(1). Multiple-year contracts may be entered into where allowed by law and if subject to annual appropriation. C.R.S. § 29-1-110(2).

**AWARD** means the acceptance of a bid or proposal pursuant to the process designated in the Code, which results in the presentation of a contract to a bidder.

**ARCHITECTURAL and ENGINEERING SERVICES** include program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping and related services.

**BEST INTERESTS OF THE COUNTY** is a term used in granting the Chief Procurement Officer authority to use discretion to take action believed to be the most advantageous to the County. The term is used when it is impossible to anticipate adequately the circumstances that may arise and thus to delineate more specific directions.

**BID** means an offer submitted by a prospective vendor in response to a bid invitation issued by a buyer. Bids are usually non-negotiable and become a contract upon acceptance by the buyer.

**BIDDER** means an individual or entity that submits a bid in response to a bid invitation or other solicitation document issued by a buyer. A bidder is not a contractor until awarded a contract.

**BID OPENING** is the process through which the contents of bids are revealed for the first time to the government, to other bidders, and usually to the public.

**BLIND TRUST** means an independently managed trust in which the employee-beneficiary has no management rights and in which the employee-beneficiary is not given notice of alterations in, or other dispositions of the property subject to the trust.

**BOCC** means the Garfield County Board of County Commissioners.

**BRAND NAME** means a product name that serves to identify the product of a particular manufacturer. A trade name.

**BRAND NAME ONLY SPECIFICATION** is a specification that cites the brand names, model numbers or other identifications as representing the quality and performance called for and inviting bids on comparable items or products of any manufacturer.

**BREACH OF CONTRACT** is a failure, without legal excuse, to perform any obligation that forms all or part of a contract.

**BUDGET** means the complete estimated financial plan of the County. C.R.S. § 29-1-102(3).

**BUDGET YEAR** means the ensuing fiscal year. C.R.S. § 29-1-102(3).

**BUYER** means a purchaser and, in context of the Code, generally refers to the BOCC and those designees, defined in Article 2 of the Code, who are authorized to enter into contracts on its behalf.

**CHANGE ORDER** refers to work that is added to or deleted from the original scope of work of a contract and that alters the original contract amount or completion date. Approval for Change Orders is addressed in § 6.5 of the Code.

**CODE** means the 2012 Procurement Code approved by the BOCC on September 4, 2012 to become effective as of October 1, 2012, as reflected in Resolution 12-81 recorded in the records of the Garfield County Clerk & Recorder at Reception No. 823749.

**COMPETE** means to obtain pricing and other applicable information from potential vendors prior to selecting a source through which to meet the County's requirements.

**COMPETITIVE RANGE** means those proposals that, upon initial evaluation, are most responsive to the requirements and are from potential vendors who are reasonably qualified to be selected for award. Proposals not within the Competitive Range are given no further consideration, as more specifically discussed in § 5.3(13) of the Code.

**COMPETITIVE SEALED BID** refers to the preferred method for acquiring goods, services, and construction for public use when award is based solely on the response to the criteria set forth in an Invitation for Bids. Bids are submitted in sealed envelopes to prevent dissemination of the contents before the deadline for the submission of all bids. This procedure is generally required on County procurements expected to cost at least twenty-five thousand dollars (\$25,000) to ensure fair competition among bidders and for requirements where the lowest responsive total price will be the most important factor in winning the award.

**COMPETITIVE SEALED PROPOSAL** refers to the method for acquiring goods, services and construction for public use when discussions or negotiations may be conducted with responsible offerors who submit proposals within the Competitive Range. The award of the contract may not necessarily go to the lowest bidder.

**CONSIDERATION** means the reason parties enter into a given contract. Consideration is an essential element of a contract; each party must give up something of value, such as payment, or refrain from doing something it is otherwise able to do.

**CONSTRUCTION** means the process of building, altering, repairing, improving, or demolishing any public structure, public building, or other public improvements of any kind to real property. It does

not include the routine operation, routine repair, or routine maintenance of any existing public infrastructure facility, including structures, buildings or real property.

**CONTRACT** means an agreement between two or more parties creating enforceable obligations. The term is used for all types of written agreements, regardless of what they may be called, for obtaining or disposing of goods, services, construction, or other performance obligations in return for specific terms, conditions or price. Specific types of contracts include, by way of example only: purchase orders, grants, leases, intergovernmental agreements and purchase of service agreements. As explained in § 1.2, the Code applies only to contracts entered into for the purchase or lease of goods or services and to the disposal of County property purchased with public funds.

**CONTRACT AMENDMENT or MODIFICATION** refers to an agreed upon revision or correction to a contract that includes the addition or deletion of original contract terms.

**CONTRACT MANAGEMENT** means the process of supervising the application of terms of a contract from award through acquisition to successful completion.

**CONTRACTS MANAGER** refers to the member of the Procurement Department responsible for managing the stages of the contracting process, which may include such activities as ensuring use of the correct contract type necessary to meet relevant legal and business requirements, ensuring inclusion of all necessary terms and conditions, approving contract revisions, managing, coordinating, and monitoring contracts and processes, planning, negotiation, storage and/or analysis of contracts and contract issues.

**CONTRACTOR** refers to any person or company having a contract with the BOCC; also often referred to as a vendor or seller.

**COOPERATIVE PURCHASES** mean those purchases made from another contract or agreement written by another federal, state, county, city, or government agency, or government cooperative for identical goods or services that do not require additional competition by the County when the agreement has been formally competed or renewed by the acquiring government within the last 12 months, as discussed in § 3.2(1)(c). The State bid list qualifies as a source of appropriate vendors for Cooperative Purchases. See also C.R.S. §§ 24-110-101(1) and 24-110-201.

**COST ANALYSIS** refers to an element-by-element evaluation of a contractor's detailed cost estimate.

**COST OR PRICING DATA** refers to factual information concerning the cost of labor, material, overhead, and other elements of cost that are expected to be incurred or that the contractor has incurred in performing the contract.

**COUNTY REPRESENTATIVE** refers to the agent of the County, usually an employee, responsible for ensuring that both the County and the vendor meet or exceed their performance requirements stated in any contract. In addition, this individual is responsible for monitoring delivery schedules, ensuring completeness and accuracy, maintaining the contract relationship, addressing related problems, identifying necessary changes, approving all vendor invoices, and actively interacting with the vendor to achieve the contract objectives.

**DOCUMENTED QUOTE** refers to a solicitation of Qualified Vendors requesting pricing and terms for Simplified Purchases. Documented Quote solicitations are not advertised publicly and are used

commonly for standard, off the shelf items, items built to known specifications, items required in small quantities, or services that can be performed within a calendar year and fall below the Standard Purchase level. Documented Quotes are attached to a properly submitted Purchase Requisition, which requires a written Scope of Work or Specifications, a list of no less than three Qualified Vendors who were contacted, identification of the successful vendor, and the reason that vendor was selected. See § 3.3(1)(e).

**ELECTED OFFICIALS** refers to those officials elected to position in Garfield County who have opted to follow the Code.

**EMERGENCY PURCHASE** means a purchase made in response to a condition that creates a threat to public health, welfare, or safety as discussed in § 3.6 of the Code. See also C.R.S. § 24-30-1407.

**ENCUMBRANCE** means a commitment related to unperformed contracts for goods or services. C.R.S. § 29-1-102(7).

**ESTABLISHED CATALOGUE PRICE** means the price included in a catalogue, price list, schedule or other format that is regularly maintained by a manufacturer or contractor, is either published or otherwise available for inspection by customers, and states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved. C.R.S. § 24-103-101(2).

**EXPENDITURE** means any use of financial resources of the County consistent with its basis of accounting for budget purposes for the provision or acquisition of goods and services for operations, debt service, capital outlay, transfers, or other financial uses. C.R.S. § 29-1-102(8)(a). Expenditures may not exceed appropriation. C.R.S. § 29-1-110 (1). Any contract involving expenditures that have not been appropriated shall be void and no money belonging to the County will be paid on such a contract. C.R.S. § 29-1-110 (1).

**FINANCIAL INTEREST** means any financial interest held by an individual and includes an ownership interest, a creditor interest in an insolvent business, employment, or prospective employment for which negotiations have begun, an ownership interest in real or personal property, a loan or any other debtor interest, or being an officer in a business.

**FISCAL YEAR** means, for Garfield County, the period commencing January 1 and ending December 31. The federal fiscal year refers to the period commencing October 1 and ending September 30.

**GOODS** mean all property, including but not limited to equipment, materials, printing, insurance and leases of real property, excluding land or permanent interest in land and has the same meaning as Supplies.

**GRANT** means the transferring of government funds to support or stimulate programs authorized by law to accomplish objectives that are locally defined and managed. It does not mean an award whose primary purpose is to procure an end product, whether in the form of supplies, services or construction (a contract resulting from such an award is not a grant but rather is a procurement contract governed by the Code).

**GRATUITIES** refer to payment, loan subscription, advance, deposit of money, service, or anything of more than nominal value, present or promised.

**IMMEDIATE FAMILY** includes a spouse, parent, grandparent, child, grandchild, brother, and sister, either through blood, adoption, or marriage, which includes in-law and step relationships.

**INDEMNITY** or **INDEMNIFICATION** refers to an agreement to compensate another upon the occurrence of an anticipated loss or damage they may suffer. Article XI of the Constitution of Colorado regarding Public Indebtedness prohibits the County from becoming “responsible for any debt, contract or liability of any person, company or corporation, public or private, in or out of the state.” Colo. Const. art. XI, § 1.

**INVITATION FOR BIDS (IFB)** means the formal process used to solicit bids, or offers, from qualified vendors for merchandise or services when complete specifications or specific purchase descriptions are available, as discussed in § 5.2 of the Code. The contract is awarded to the lowest responsive and responsible bidder.

**LIQUIDATED DAMAGES** refer to a specific sum identified in a contract that the parties agree is a fair and reasonable estimate of actual damages that would be incurred in the event of a contractual breach. Liquidated damages replace actual damages and are appropriate only when it would be difficult to determine the amount of actual damages. A liquidated damage provision may apply to one or both parties.

**LOCAL BUSINESS** refers to businesses that meet the qualifications set by the BOCC in Resolution 2011-21 and further defined in § 5.1 of the Code and that may qualify for certain preferences when bidding on County contracts.

**NON-RESPONSIVE BID** refers to a bid that does not conform to the mandatory or essential requirements of the Invitation for Bid.

**NEW WORLD SYSTEMS** refers to the financial management software utilized by the County as of October 1, 2012.

**OFFER** refers to a proposal from one party to another to do or to refrain from doing something resulting in a legally binding commitment. Acceptance by the other party creates a contract.

**PAYMENT BOND** refers to a financial guarantee by a successful bidder for a construction project to assure payment to individuals performing work on that project.

**PERFORMANCE BOND** refers to a financial guarantee by a successful bidder to protect the County from loss due to his/her inability to complete the contract as agreed.

**PERSONAL SERVICES** refer to acts performed by individuals or entities that provide services involving intellectual or manual effort as opposed to only providing goods (that may or may not have been created by their efforts).

**PRICE ANALYSIS** refers to the evaluation of price data, which may assist in arriving at the price a buyer might expect to pay. This is done by looking at individual components of the cost.

**PRICING DATA** refers to factual information concerning prices for items substantially similar to those being procured. Prices in this definition refer to offered or proposed selling prices, current and historical selling prices. The definition refers to data relevant to both prime and subcontract prices.

**PROCUREMENT** means the acquisition or disposal of supplies, services or construction for the use or benefit of the County, whether through purchase or lease. It also includes all functions that pertain to the obtaining of any supply, service or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract and all phases of contract administration.

**PROCUREMENT PROCESS** refers to the series of acts of defining requirements, solicitation of sources, issuing bid documents, source selection, preparation and award of contract, and administration of the contract.

**PROFESSIONAL SERVICES** refer to a type of Personal Services rendered by members of a recognized profession or persons possessing a special skill. Professional services are essentially intellectual in character and include analysis, evaluation, exercise of discretion, independent judgment, prediction, planning, or recommendation in their performance, and an advanced or specialized type of knowledge, expertise or training customarily acquired either by a prolonged course of study or equivalent experience in the field. Professional Services are generally acquired to obtain information, advice, training or direct assistance and include, but are not limited to, services performed by a licensed accountant, auditor, analyst, consultant, lawyer, physician, planner, artist, engineer or architect when the exact scope and content of the services cannot be specified readily with certainty. See also C.R.S. §§ 24-30-1401, *et seq.* and 24-103-101(4).

**PROPOSAL** refers to the documents submitted by vendors in response to an RFP that then become the basis for negotiations. Proposals are solicited when vendor selection is to be made on the basis of performance rather than price alone. See RFP.

**PURCHASE ORDER (PO)** refers to a written order issued by a buyer to a vendor formalizing all of the terms and conditions of a proposed transaction. Once signed, a PO becomes a contract. A PO will be included among the approved contract forms authorized for use by the County Attorney when used in connection with Small Purchases.

**PURCHASE NUMBER or PURCHASE ORDER NUMBER** refers to the number that will be assigned to a properly completed Purchase Requisition signifying that funds have been encumbered and are available to pay future invoices submitted against the relevant contract. The Purchase Number must appear on all vouchers requesting payment to a vendor so that the appropriated funds will be applied. Vouchers for payment in excess of \$10,000 cannot be processed without a Purchase Order Number.

**PURCHASE REQUISITION (PR)** means a request from or on behalf of a Department or Elected Official to the Procurement Department that a contract be entered into for a specific purpose or to meet a specific need. A PR must be submitted through New World Systems and shall include all of the information required for the purchase, such as a Scope of Work or Specifications if a Standard Purchase (see § 3.1) or Document Quote information and a signed contract if a Simplified Purchase (see § 3.3); other information, as specified in the Code, may be necessary in order to finalize a PR. The Procurement Department cannot process an incomplete PR. Every PR should be complete prior to commencement of performance under the contract.

**PURCHASED SERVICES** refers to services that are purchased from public or private entities that directly benefit discrete groups or individuals in the general public and that are usually funded by a

law-defined state grant. Examples of Purchases Services include foster care, refugee services, mental health and the like.

**QUALIFICATIONS-BASED COMPETITIVE PROCEDURES** require that an offeror's qualifications, exclusive of price, be evaluated and that contract negotiations will be conducted only with the offeror deemed most qualified. If agreement as to price cannot be reached, negotiations with the next most qualified offeror will be conducted until a contract award can be made to the most qualified offeror whose price is fair and reasonable to the County.

**QUALIFIED VENDOR** means a seller or provider of goods or services with the experience, qualifications, and ability to perform a contract if awarded.

**REQUEST FOR INFORMATION (RFI)** means a published request asking potential vendors to identify information regarding the availability, features or measures for the purchase of goods or services that will assist the County during the procurement process.

**REQUEST FOR PROPOSALS (RFP)** means a the formal process used to solicit proposals from potential vendors when a desired outcome is known and recommendations about how to achieve that outcome are requested, as discussed in § 5.3 of the Code. Contract award is based upon factors in addition to or other than price.

**REQUEST FOR QUALIFICATIONS (RFQ)** refers to solicitation documents requesting submittal of qualifications or specialized expertise in response to the scope of services required. Pricing is not solicited with RFQs. RFQs are generally the first in a two part solicitation process and are followed by an RFP or IFB. They are used most often in construction projects.

**RESPONSIBLE BIDDER OR OFFEROR** refers to those potential vendors who have submitted bids or proposals and who have the capability to fully perform all contract requirements as well as the experience, integrity, reliability, capacity, facilities, equipment and credit assuring good faith performance. Past performance, financial capabilities, and business management may be included as criteria for determination of a bidder's ability to satisfy contract requirements.

**RESPONSIVE BID** is a bid that substantially conforms to the requirements outlined in the IFB.

**RESPONSIVE BIDDER OR OFFEROR** is a potential vendor who has submitted an offer that conforms in all material respects to the requirements set forth in the IFB or RFP.

**SCOPE OF WORK (SoW)** means the written description of the required goods or service stated in terms of the result to be achieved upon contract completion as discussed in §§ 4.1(2)(a) and 4.2 of the Code.

**SERVICES** mean the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports that are merely incidental to the required performance. There are many types of services, including by way of example only Professional Services, Personal Services and Purchased Services, each of which may require different contract terms. Services as used here do not include employment agreements or collective bargaining agreements.

**SIMPLIFIED PURCHASE** means any purchase with a contract requirement of \$10,000 up to \$25,000, as discussed in § 3.3.

**SMALL PURCHASE** means any purchase with a contract requirement of less than \$10,000, as discussed in § 3.4.

**SOLE SOURCE JUSTIFICATION** refers to the form that demonstrates that the criteria of a Sole Source Purchase, described in § 3.5, are met and that is completed and signed by the requesting Department and approved by the County Manager prior to entering into a contract with a vendor.

**SOLE SOURCE PURCHASE** means a purchase of a good or service with a contract requirement of \$10,000 or more that does not meet the competitive solicitation standards of either a Simplified Purchase or a Standard Purchase, and that satisfies the standards described in § 3.5. A contract amendment or extension that is outside the terms of the original solicitation and contract is technically a sole source purchase.

**SOLICITATION** refers to the telephone call, email, or document, such as an RFP or IFB or Documented Quote, requesting submittal of bids or proposals in accordance with the required specifications. Unlike an offer, a solicitation is not an unequivocal offer to enter into a binding agreement.

**SPECIFICATIONS** refer to the written description of the physical or functional performance criteria necessary to meet the County's needs as discussed in §§ 4.1(3)(b) and 4.3.

**STANDARD PURCHASE** means any purchase with a contract requirement of \$25,000 or more, as discussed in § 3.1.

**SUPPLIES** mean all property, including but not limited to equipment, materials, printing, insurance and leases of real property, excluding land or permanent interest in land and has the same meaning as Goods.

**SURPLUS PROPERTY** refers to any County owned property that is no longer functional (and is beyond repair), has been utilized for a period of time equal to its useful life, or is no longer of any use to any County Department.

**UNIFORM COMMERCIAL CODE (UCC)** refers to the statutes, adopted in the State of Colorado as C.R.S. Title 4, that define the rights and duties of parties in commercial situations, such as the sale of goods, secured transactions, and negotiable instruments, and that conform the rules to modern commercial disputes.

**UNSOLICITED PROPOSALS** refers to any offer made by a third party to sell goods or provide services to the County that have not been solicited or published by the County.

**VENDOR** means the individual or entity providing the service or product that is the subject of the procurement. It has the same meaning as Contractor or Seller.