



## **PROCUREMENT POLICY**

### **SECTION 1: PURPOSE**

1.0 This Purchasing Policy (Policy) sets forth the rules and procedures for VCOG's procurement activities. As a recipient of federal and state funds, VCOG has the responsibility to ensure that its procurement process complies with all applicable federal, state, and VCOG legal requirements, is based on sound business practices, is transparently conducted in a manner that ethically serves the best interest of VCOG, VCOG member jurisdictions, and the public, and ensures fair and open competition.

### **SECTION 2: PURCHASING AUTHORITY**

2.0 Project Manager. The Executive Director (ED) of VCOG is hereby designated as its Project Manager.

2.1 Project Manager Authority. The Project Manager is authorized to purchase or lease materials, supplies, services, and equipment without prior authorization of the VCOG Board of Directors (Board) if the total (not annual) cost is \$25,000 or less from one vendor. All other purchases shall require Board authorization unless the Board has specifically authorized the ED to execute procurements of specified amounts for specified services. Amendments to contracts approved by the Board, or amendments to contracts approved by the Project Manager which will result in a total contract sum of more than \$25,000, shall be approved by the Board.

### **SECTION 3: PURCHASES USING STATE OR FEDERAL FUNDS**

3.0 Notwithstanding any other provision of this Policy, if a purchase is funded in whole or in part by state or federal grant funds and the grant requires VCOG to use specific purchasing procedures that are inconsistent with the requirements of this Policy, then VCOG shall follow the grant requirements. VCOG's general counsel shall be consulted regarding contract requirements for purchases with state or federal funds. If there is a Memorandum of Agreement/Understanding (MOA/U) between VCOG and the grant administrator, the MOA/U terms shall supersede this policy.

### **SECTION 4: COMPETITIVE PURCHASING PROCEDURES**

4.0 Estimates. Prior to making a purchase, the Project Manager shall make a good faith estimate of the amount of the purchase, using available information regarding market rates, in order to determine the appropriate purchasing procedure. However, inaccurate estimates shall not invalidate any procurement procedure or purchase, provided that all estimates shall be made in good faith and prices shall not be intentionally underestimated, nor shall purchases be split or separated into smaller orders, in order to avoid more formal procurement procedures. A memorandum for the record shall be prepared for all procurements over \$500 that explains how the Project Manager determined each procurement procedure, or series of similar procurements.

The table below summarizes how the appropriate purchasing procedure shall be determined:

Amount of Purchase	Required Approvals	Required Solicitation	Required Documentation
(\$500 or Less)	Executive Director	<ul style="list-style-type: none"> <li>• Price must be considered reasonable based on current market</li> <li>• Purchase can be made from a contractor successfully used in the past, with reasonable pricing</li> <li>• As much as possible, micro-purchases will be rotated among qualified suppliers, provided pricing is comparable</li> </ul>	<ul style="list-style-type: none"> <li>• Receipt or invoice approved by individual(s) in Required Approvals column</li> </ul>
(\$501 to \$25,000)	Executive Director	<ul style="list-style-type: none"> <li>• 3 quotes or proposals (catalogue, Internet, written, etc.) from at least 3 firms and/or sole-proprietors; email or letter proposals acceptable</li> </ul>	<ul style="list-style-type: none"> <li>• Documentation of quotes obtained</li> <li>• Procurement documentation (proposals, evaluations, record of negotiation).</li> <li>• Executed contract</li> <li>• Correspondence</li> </ul>
(\$25,001 or more)	Executive Director	<ul style="list-style-type: none"> <li>• Competitive Request for Proposals or Sealed Bid Method of Procurement</li> <li>• Or select a contractor from pre-qualified contractor bench</li> <li>• Scope of work</li> <li>• Evaluation Criteria</li> </ul>	<ul style="list-style-type: none"> <li>• Copy of RFB or RFP</li> <li>• Procurement documentation (proposals, evaluations, record of negotiation).</li> <li>• Executed contract</li> <li>• Correspondence</li> <li>• Proposal scoring grids, including who participated in the scoring</li> <li>• Signed conflict of interest forms for VCOG scorers</li> <li>• Proposal and contract of winning bidder/proposer</li> </ul>



4.1 Purchasing Procedures; Thresholds. Except as provided in Sections 4.5, 4.6, and 4.7, the Project Manager shall make purchases or enter into leases and contracts in accordance with the following requirements:

\$500 or less:	Purchases shall not require competitive bidding but may be made following the receipt of at least one price quote or proposal.
\$501 – \$25,000:	Purchases shall be made following the receipt of at least three written price quotes or proposals, which may be solicited using any means reasonably calculated to obtain a combination of the lowest price and highest quality of goods or services available. Such solicitations do not need to be published in a newspaper and may be made by posting a notice in a public location, including a website, or by mail, fax, or email. The Purchasing Manager shall keep a record of all such solicitations and the price quotes or proposals submitted in response thereto.
\$25,001 or more:	Purchases shall be made following the posting of a written Request for Proposal (RFP) solicitation. Such written solicitations and offers or responses thereto will conform with Section 4.2 below.

4.2 Formal Procurement Procedures. For procurements \$25,001 or more, the following formal procedures shall be followed:

A. To help ensure full and open competition, solicitations for goods and services, requests for proposals (RFPs), and invitation for bid (IFBs or sealed bids) will provide for all of the following:

- (i) A clear and accurate description of the technical requirements for the material, product, or service to be procured. Descriptions will not contain features which unduly restrict competition in accordance with 2 CFR Part 200.319(c)(1).
- (ii) Technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
- (iii) Requirements which the offeror must fulfill and all other factors to be used in evaluating bids or proposals in accordance with 2 CFR Part 200.319(c)(2).
- (iv) Description may also include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, must set forth the minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible to avoid impeding competition in accordance with 2 CFR Part 200.319(c)(1).

B. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met will be clearly stated in accordance with 2 CFR Part 200.319(c)(1).

- (i) Required delivery or performance dates/schedules.
- (ii) Clear indications of the quantity or quantities requested and unit(s) of measure, if applicable.
- (iii) A description of the format, if any, in which the requested information, proposals, or bids must be submitted, including the name of the person to whom it should be sent.
- (iv) The date by which information, proposals, or bids are due.

C. Public Notice and Solicitation Period. Public notice of formal solicitations shall be issued not less than ten (10) County of Ventura working days prior to the opening. A notice shall be posted in a public forum. The public notice must specify the place where solicitation documents may be obtained, if a fee applies, and the time and place for submission of solicitation responses.

D. Specifications/Scopes of Work. Specifications and scopes of work shall permit free and full competition to the maximum extent possible under the attendant circumstances. The Purchasing Department shall make the final determination of the acceptability of specifications and scope of work requirements to be included in any solicitation. Solicitation documents must identify all criteria which will be considered in an award recommendation.

#### 4.3 Evaluation and Award of Contract.

A. Rejection of Bids. VCOG may reject all bids in its sole discretion.

B. No Bids Received. If no bids are received, VCOG may make the purchase by any reasonable and available means, notwithstanding the other requirements of this Policy, unless otherwise directed due to funding source.

C. Less than Three Bids Received. If less than three bids are received, the Project Manager shall consider re-noticing the RFP, or award based on the proposals that were received. If the Project Manager elects not to re-notice the RFP, the action must be documented in the file with the reasoning for the decision.

C. Lowest Responsive and Responsible Bidder. If a contract is awarded, it shall be awarded to the lowest responsive and responsible bidder, except that the award of contracts for professional services shall be based on the criteria specified in Section 4.4. Notice of intent to award may be made available in a public forum and may include the date of the award, the successful vendor name, and the contract amount.

- (i) A responsive bidder is a bidder whose bid or proposal conforms to the specifications in the solicitation. Vendors shall respond in the manner set forth in the solicitation. Late responses to solicitations shall not be accepted.
- (ii) A responsible bidder is a bidder capable of performing the services or providing the supplies or equipment in a professional manner as reasonably determined by the Project Manager. In determining



whether a bidder is responsible, consideration may be given to the following factors:

- (a) Quality of the items or services offered;
- (b) Ability, capacity, and skill of the bidder or vendor to perform the contract or provide the services;
- (c) Ability, capacity, and skill of the bidder or vendor to perform the contract or provide the service promptly, within the time specified, and without delay or interference;
- (d) Character, integrity, reputation, judgment, training, experience, and efficiency of the bidder;
- (e) Ability to meet the requested schedule of deliverables;
- (f) Sufficiency of the bidder's financial resources; and
- (g) Ability of the bidder to provide such future service as may be needed; and
- (h) Absence of an undisclosed and/or unexplained conflict, or apparent conflict, of interest with a VCOG member agency and/or Board member.

D. Contract Clauses. Any consultant contract will contain any required flow down clauses pursuant to the funding source.

E. Insurance Requirements. Certificates of insurance will be required by the successful contractor to confirm that the insurance policies required by the contract have been obtained. These certificates of insurance or other documentation of insurance are required from the contractor following award of the contract but no later than contractor's site mobilization. No work will be authorized until the required insurance documentation is received by VCOG staff.

F. Conflict of Interest. VCOG Staff shall not participate directly or indirectly in a procurement when the staff person knows that: (1) the staff person or any member of the employee's immediate family (immediate family member is defined as a parent; sibling; child by blood, adoption, or marriage; spouse; grandparent or grandchild) has a personal financial interest pertaining to the procurement; (2) a business or organization in which the employee, or any member of the employee's immediate family, has a personal financial interest pertaining to the procurement; or (3) any other person, business or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement. Upon discovery of an actual or potential conflict of interest, an employee shall promptly withdraw from further participation in the transaction involved and notify his/her immediate supervisor and Purchasing of the conflict.

G. Debarment. Contractors/vendors and subcontractors must not be debarred, suspended or otherwise excluded by the United States Government in compliance with the requirements of 7 Code of Federal Regulations (CFR) 3016.35, 28 CFR 66.35, 29 CFR 97.35, 34 CFR 80.35, 45 CFR 92.35, Executive Order 12549, and Public Contract Code (PCC) Section 6109. (The County will verify bidder, its principal and their named subcontractors are not on the Federal debarred, suspended or otherwise

excluded list of vendors located at [www.sam.gov](http://www.sam.gov).) Contract and/or Purchase Order will be terminated upon verification that vendor is on the excluded list of vendors.

H. Protests. Bidders may not protest the contents of the specifications of the bid. Any participating vendor may file a protest of a contract award or proposed contract award. The protest or appeal must be made in writing within ten (10) days of award notification and contain at least the following information:

- The name, address and telephone number of the protester;
- The signature of the protester;
- The bid number and date of bid closing; and
- A statement of the legal and/or factual grounds on which the protest or appeal is based, including copies of information relevant to the bid.

I. Resolution of Protests. The Executive Director will investigate the grounds stated within the protest and respond within ten (10) calendar days. The Executive Director's decision shall stand.

4.4 Procurement Files. VCOG will maintain records sufficient to detail the history of procurement, including, but not limited to:

- (i) Rationale for the method of procurement;
- (ii) Selection of contract type;
- (iii) Basis for contractor selection or rejection;
- (iv) Record of contract or price negotiation;
- (v) The basis for the contract price; and
- (vi) Documentation of no conflict of interest for evaluator(s).

VCOG will make all procurement files available for inspection upon request by a federal, state, or pass-through awarding agency.

4.5 Professional Services. Selection of persons or firms to provide professional services shall be based on demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. The price for the services shall be reasonable and competitive but VCOG is not required to award the contract to the lowest bidder. Evaluation criteria and relative weight shall be included in any solicitation or RFP.

4.6 Public Works Projects. Although VCOG does not anticipate procurement for public works projects, such a procurement shall be solicited and awarded in accordance with applicable state or federal laws. VCOG's general counsel shall be consulted regarding contract requirements for public works projects.

4.7 Exceptions to Competitive Bidding. The procedures in this Section 3 shall not apply to purchases or contracts that satisfy one or more of the following criteria:

A. No competitive advantage; sole source. Purchases for which no competitive advantage would be gained from competitive pricing, such as when equipment, goods, materials, supplies, personal property, or services are unique and are only available from one source. However, sole source purchasing shall only be permitted for purchases of up to \$25,000. For purchases totaling more than \$25,000, the Project Manager shall use the competitive bidding procedures described in this Section.



B. Cooperative purchasing. Purchases made through a cooperative purchasing agreement.

C. "Piggyback" Purchasing. Purchases where the vendor was awarded a bid by another public agency, said agency used purchasing procedures substantially similar to those that VCOG would have been required to use, and the vendor offers the same price(s) to VCOG that it offered to the other agency.

D. Emergency purchases. Purchases made when there is an emergency, as determined by the Executive Director, threatening life, health, or safety, and services and/or goods must be procured immediately to prevent loss. Emergency purchases in excess of \$500 must be presented at the next regular Board meeting for ratification by the Board.

E. Bidding Impractical. Purchases for which bidding would be impractical, inefficient, or otherwise not in the best interest of VCOG, as determined by a Board resolution stating the basis for such determination.

F. Amendments and Extensions. Amendments to existing contracts, including amendments that extend the term of the contract or increase the compensation due under the contract.

G. Existing Contracts. Contracts in place as of the date this Policy is adopted.

4.8 Price Discrepancy. Should a discrepancy exist in prices, the bid price shown for the unit price or lump sum item shall take precedence over the bid price shown for the total.

4.9 Security. All bidders must supply such bidders' security, payment bonds, and/or performance bonds as are required by law or as are determined to be appropriate by the Project Manager.

## **SECTION 5: DISPOSITION OF VCOG PROPERTY**

5.0 Except as hereinafter provided, upon a finding by the Board of Directors that property belonging to VCOG is no longer required for VCOG purposes, the Project Manager shall proceed to dispose of the property as authorized by the Board.

5.1 With respect to any item of equipment and supplies determined by the Project Manager to have a current value of \$2,500 or less, the Project Manager is authorized to determine whether or not such item of equipment is surplus to VCOG needs and thereupon may dispose of it in such manner and for such consideration as will best serve the interests of VCOG without expressed consent of the Board of Directors. Such disposal, and the reasons therefore, shall promptly be reported to the Board of Directors, unless the amount or value received is \$500 or less.