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DeKalb County Purchasing Policy

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PART 1

GENERAL PROVISIONS

SECTION I **SCOPE**

This Policy shall govern all acquisitions and dispositions by DeKalb County of commodities, equipment and services and all related contracts and agreements including those that may generate revenue. This Policy does not apply to the acquisition or disposition of commodities, equipment and services obtained or contracted for by the Tax Commissioner, Clerk of Superior Court, the District Attorney or the Sheriff. This Policy supersedes and repeals all previously existing policies to the extent they are inconsistent with the provisions herein.

SECTION II **EXEMPTIONS**

The following supplies and services generally are exempted from this Policy; however, the Director, in his sole discretion, may opt to utilize the procedures outlined herein for such supplies and services where appropriate:

- A. The normal establishment and collection of taxes, fees, and other revenues that fund the normal functions of DeKalb County Government.
- B. Works of art for public places, or other creative/artistic endeavors that require a particular and demonstrated skill or talent to include, but not limited to, artists, musicians, and writers.
- C. Printed copyright material including published books, maps, periodicals and technical pamphlets (not including software for computer systems), except where a greater savings can be realized by a quantity purchase.
- D. Real property, real estate brokerage and appraising, abstract of titles for real property, title insurance for real property and other related costs of acquisition of real property.
- E. Dues, memberships and board member fees.
- F. Subscriptions.
- G. Services provided directly to individual citizens, elected officials and employees including reimbursements and other miscellaneous payments.
- H. Utilities, where there is no reasonable basis for competitive procurement, for example electric power, water, and sewerage.

- I. Legal services, litigation related legal expenses, investigators, experts and materials, and services required for confidential employment related investigations.
- J. Marketing of bonds and other forms of debt or debt management products, including but not limited to interest rate management agreements.
- K. Training, advisory consulting and related activities, facilitators for meetings, travel, lodging or meal expenses covered by other County policies and regulations.
- L. Items for resale.
- M. Advertisements and legal advertisements including, but not limited to, bid/proposal solicitations and advertisements placed by boards that are required by law to publicly advertise their meetings or actions in the legal organ of the County.
- N. Public works construction contracts to the extent that process is governed by O.C.G.A. §36-91-1, *et seq.*
- O. Antiques and other unique assets of historical value, including restoration of these items.
- P. Materials or services required for confidential and secure investigations, apprehensions and detentions of individuals suspected of or convicted of criminal offenses by law enforcement personnel.
- Q. Purchases made from, or the disposition to, other federal, state and local governments, associations, universities/colleges, and non-profit organizations when determined by the Director to be in the best interest of the County.
- R. Grant awards or agreements that require certain firms or individuals to perform the work.

SECTION III INTERPRETATION

A. PURPOSE

This Policy shall be construed and applied to promote its underlying purposes and policies, which are:

1. To obtain the best value in terms of quality, service and price when expending public funds;

2. To foster effective, fair and broad-based competition for public procurement within the free enterprise system;
3. To provide safeguards for the maintenance of quality, integrity and equity in the purchase and disposition of County property;

B. RULES OF CONSTRUCTION

In this Policy unless the text requires otherwise:

1. Words in the singular number include the plural, and those in the plural include the singular.
2. Words of a particular gender include any gender and the neuter, and when the sense so indicates, words of the neuter gender may refer to any gender.
3. “May” shall be permissive and not mandatory.
4. “Shall” shall be mandatory and not permissive.
5. Terms which are not specifically defined herein shall have their usual and customary meanings.

SECTION IV APPLICATION OF FEDERAL AND STATE LAW

It is intended that this Policy shall conform to all applicable provisions of the laws of the United States and of the State of Georgia, and the provisions hereof shall be so construed wherever possible. In the event any portion of this Policy shall be declared invalid for its failure to conform to state or federal law, such invalidity shall not affect the remaining portions hereof. Notwithstanding any other provision of this Policy, the County may enter into any contract, follow any procedure, or take any action that is otherwise at variance with this Policy if necessary or convenient to receiving funds from the government of the United States or the State of Georgia.

SECTION V DEFINITIONS

The words defined in Part X of this Policy shall have the meanings set forth therein wherever they appear in this Policy. Terms which are not specifically defined herein shall have their usual and customary meanings.

SECTION VI PUBLIC ACCESS TO PROCUREMENT INFORMATION

Interested persons shall have access to information regarding procurement transactions of DeKalb County in accordance with County policy and the Georgia Open Records Act, O.C.G.A. §50-18-70, *et seq.*

SECTION VII ETHICS

It is the policy of DeKalb County to seek the best overall value when procuring goods and services. Toward this end, the County finds and declares that its objectives will best be achieved through an open, competitive process with a broad range of responsible suppliers wishing to furnish products and services to the County. DeKalb County will set up and conduct a procurement program that maximizes service benefit to the community and awards contracts to suppliers who offer the best value.

- A. DeKalb County Employees shall comply with all applicable ethical rules including, but not limited to, §22A of the DeKalb County Organizational Act, Chapter 20 of the Code of DeKalb County, as Revised 1988, and the Chief Executive Officer's Executive Order No. 2014-4.
- B. Prospective suppliers must compete for County business within the parameters of the solicitation process and are prohibited from seeking to obtain inside information, attempting to skew the writing of specifications or influencing a procurement decision through any means outside the process established for the particular solicitation. This principle applies to any contractor, subcontractor, representative, employee or agent who may be associated with a procurement transaction.
- C. Attempting to influence the outcome of any given contract prior to a recommendation of award to the Governing Authority is strictly prohibited. The Director will review alleged violations of this prohibition. If the Director determines that such a communication has compromised the competitive process, the offer submitted by that Person may be disqualified from consideration for award, and that Person may, among other things, be recommended for placement on the Ineligible Source List.
- D. County employees are prohibited from purchasing commodities or services from a County contract for personal use.

SECTION VIII APPROPRIATE EXPENDITURES

All purchases shall comply with applicable DeKalb County policies and budget appropriations. To ensure that all purchases made are appropriate

expenditures, each Elected Official or Department Director shall ensure that purchases made pursuant to his or her authority comply with all applicable law, and budgetary appropriations.

SECTION IX BUDGETED EXPENDITURES

It is the responsibility of each Elected Official or Department Director to ensure all purchases made for or by their agency or department are consistent with, and support the current approved budget prior to committing funds. Specific approval is required for certain capital purchases, as provided in the Budget Resolution.

SECTION X. GRANTS

The expenditure of grant funds is subject to the requirements of this policy unless it is exempt under Part I, Section 2 (R) above. If the expenditure is exempt, the grant agreement shall be handled or processed by the Purchasing and Contracting Department only to the extent that the agreement must be numbered for tracking purposes and routed to the appropriate departments and offices for signature.

Purchase requisitions for the expenditure of any grant funds require special approval by the Director of Finance or his/her designee and the Department Director or his/her designee.

PART 2

PROCUREMENT ORGANIZATION

SECTION I AUTHORITY AND RESPONSIBILITY OF PURCHASING AND CONTRACTING DEPARTMENT AND THE DIRECTOR

The Purchasing and Contracting Department shall serve DeKalb County Government by obtaining required commodities and services in accordance with Georgia law and this Policy. The Director shall, except as otherwise specified herein, be responsible for the administration of all transactions governed by the provisions of this Policy and shall serve as the principal procurement officer of the County. Unless otherwise provided, any duties and powers of the Director may be delegated by him/her to subordinate purchasing staff members and other employees. The Director shall be subject to the authority and supervision of the Executive Assistant/Chief Operating Officer and/or the Chief Executive Officer.

SECTION II PROCUREMENT PROCEDURES

The Director is authorized to establish, implement and enforce written operational procedures relating to acquisitions and dispositions subject to this Policy. Such procedures shall, to the extent consistent with applicable law and this Policy, be based upon generally accepted public purchasing principles and practices and shall become effective upon approval by the Chief Executive Officer. Additionally, these procedures may be revised, as necessary, through the same process used for their initial approval.

SECTION III DISCLAIMER OF RESPONSIBILITY FOR IMPROPER PURCHASING

The Governing Authority may disclaim responsibility and liability for any purchase, expenditure, or agreement for expenditures arising from procurements made in its name, or in the name of any governmental body under its authority, by an unauthorized person or any person acting outside this Policy or the authorization or delegation as provided in this Policy. The expense of any such disclaimed transaction may become the personal liability of the individual who acted improperly.

SECTION IV PURCHASING ADVISORY COMMITTEE (PAC)

A Purchasing Advisory Committee shall be established and comprised of members (selected from user departments by the County's Chief Executive Officer, Executive Assistant/Chief Operating Officer, Director of Finance and the Director) who shall serve for two year staggered terms. The Committee shall meet periodically (at least annually) to review purchasing procedures and make recommendations for changes; resolve problems regarding the

purchasing process; place Persons on the Ineligible Source List, make recommendations for standardization of commodities, scheduled buying, qualified products list, annual contracts, vendor performance and other problems or requirements related to purchasing.

The Director shall make recommendations regarding the placement of a Person on the Ineligible Source List. Prior to the inclusion of a supplier, vendor or contractor on the Ineligible Source List, an informal hearing shall be held before the PAC on the matter. After presentation by both the Director and the supplier, vendor or contractor subject to placement on the Ineligible Source List (or their respective delegates/representatives), the PAC shall deliver its decision in the matter within 30 days of its hearing on the matter. Such decision shall include the basis therefore and, if appropriate, the length of time, not to exceed three years, that such supplier, vendor, or contractors shall remain on the Ineligible Source List.

PART 3

PROCUREMENT METHODS

SECTION I GENERAL

A. A supplier's contract compliance history with DeKalb County and other contractual parties is a valid element in the decision to award a solicitation.

B. DeKalb County stipulates that the furtherance of its strategic goals for job creation, stability and growth in the tax base, business retention, and other fiscal and economic development objectives may be considered during the procurement process. The Director is authorized to establish procurement initiatives consistent with the County's strategic economic development objectives. These procurement practices shall be applied consistently and equitably, and shall have a direct relationship to the County's goals.

SECTION II SUMMARY OF METHODS OF PROCUREMENT

In most cases, this Policy recognizes six methods of procurement and the conditions under which each method shall be used. The Director shall make the determination of the type of procurement.

A. COMPETITIVE SEALED BIDDING

In most cases the competitive sealed bid is the preferred method of procurement in the public sector and should be used whenever possible as it allows qualified, responsive bidders to compete on the basis of price. Generally, the following conditions must be met:

1. Clear and adequate specifications.
2. Two or more responsible bidders are willing to participate in the process.
3. Cost of materials, supplies, equipment, services or project is in excess of \$50,000.00, and/or
4. Revenue is in excess of \$100,000.00.

Unless otherwise provided herein, formal sealed bids must be obtained for any item or service which is expected to cost or generate revenue in excess of \$50,000.00 or \$100,000.00 respectively, unless the competitive sealed bid process is either not applicable or is determined by the Director not to be in the best interest of the County as outlined herein. Should the DeKalb

County Organizational Act be hereafter amended to increase this bidding threshold so shall the amount in this Policy be changed.

B. COMPETITIVE SEALED PROPOSAL

When use of the competitive sealed bid is either not practical or not advantageous to the County, a contract may be entered into by use of the competitive sealed proposal. Use of the proposal is dependent upon such factors as:

1. Whether quality, availability or capability is overriding in relation to price in procurement of technical supplies or technical or professional services.
2. Whether the initial installation needs to be evaluated together with subsequent maintenance and service capabilities and what priorities should be given these requirements in the County's best interest
3. Whether a fixed price or cost type contract is more advantageous.
4. Whether the market place will respond better to a solicitation permitting not only a range of alternate proposals, but evaluation and discussion of them before making the award.
5. Cost of equipment, services or project is in excess of \$50,000.00, and/or
6. Revenue is in excess of \$100,000.00.

Unless otherwise provided herein, formal sealed proposals must be obtained for any item or service which is expected to cost or generate revenue in excess of \$50,000.00 or \$100,000 respectively and for which the competitive sealed bid process is either not applicable or is determined by the Director not to be in the best interest of the County as outlined herein. Should the DeKalb County Organizational Act be hereafter amended to increase this bidding threshold so shall the amount in this Policy be changed.

C. INFORMAL PURCHASE

The Director is authorized to establish the methods and procedures to be used in handling informal purchases not exceeding \$50,000.00. Unless otherwise specifically provided, such purchases will be obtained competitively through telephone quotations or informal written solicitations. In most instances, this may be accomplished through a

Purchase Order and does not require a formal, written agreement; however, the Director may, in his discretion, require that certain purchases be accomplished through formal, written agreement.

D. SOLE SOURCE PURCHASE

A sole source procurement may be used when only one supplier is able to fill requirements for the intended use. Sole source may be used for compatibility with equipment for repair purposes, or for compatibility with existing systems. Standardization may require a sole source procurement, depending upon the intended use.

Standardization, which is either established as a result of past procurement(s) or by approval of the Purchasing Advisory Committee, can be a satisfactory justification for a sole source.

All sole source purchases must be authorized by the Director. Prior to authorization, written justification must be signed by the Department Director and submitted to Purchasing and Contracting for evaluation.

E. EMERGENCY PURCHASE

An emergency exists when there is an imminent threat to the health, welfare or safety of people or property, or when there is a material loss of essential government services. The competitive process should be followed whenever possible in an emergency as long as the ability to respond to the emergency is not seriously impaired. The Director decides if a competitive process is required in any given emergency.

All emergency purchases must be authorized by the Director. Emergency purchases of \$100,000.00 or greater must be ratified by official action of the Governing Authority at a future Board of Commissioners' meeting and the reason for the emergency must be contained in the minutes of the meeting.

F. COOPERATIVE PURCHASE

The County may participate in a cooperative purchase for the acquisition of commodities, supplies and services through an authorized contract of any other governmental entity or agency whether federal, state or local, provided a competitive procurement process has been followed and the cooperative purchase is determined by the Director to be in the best interest of the County.

G. STATE OF GEORGIA AND FEDERAL CONTRACTS

Purchases exceeding \$50,000.00 may be made without formal sealed solicitations provided the supplier at the time of purchase has an existing contract or schedule with the State of Georgia or federal government and such purchase is determined by the Director to be in the best interest of the County. The purchase must be made pursuant to the price, terms, and conditions of said contract and the County must receive all the benefits of such contract.

SECTION III MANDATORY PRE-QUALIFICATION PROCESS

A. PUBLIC WORKS CONSTRUCTION CONTRACTS GOVERNED BY O.C.G.A. §36-91-20

The Director is hereby delegated the authority to administer a process for mandatory pre-qualification of prospective bidders for public works construction contracts pursuant to OCGA §36-91-20(f).

B. ALL OTHER CONTRACTS

The Director is authorized to determine if a process for mandatory pre-qualification for competitive sealed bids and competitive sealed proposals of bidders or proposers is appropriate for the procurement of a particular commodity or service, subject to these requirements:

1. Criteria for pre-qualification shall be reasonably related to the project or the quality of the work.
2. Criteria for pre-qualification shall be available to any prospective bidder requesting such information.
3. There shall be a method of notifying prospective bidders of the criteria for pre-qualification.
4. There shall be a procedure for a disqualified bidder to respond to his or her disqualification to the Director; however, such procedure shall not include a formal appeal or bid protest.

No bid or proposal shall be eligible for consideration by the County from a prospective bidder who has not been pre-qualified on the procurement in question where the Invitation to Bid or the Request for Proposal specified that pre-qualification would be mandatory, and any non-compliant bid or proposal received shall be returned to the prospective bidder unopened.

SECTION IV COMPETITIVE SEALED BIDDING

A. ACQUISITIONS IN EXCESS OF \$50,000.00

Unless otherwise provided herein, formal sealed bids must be obtained for any item or service which is expected to cost or generate revenue in excess of \$50,000.00 or \$100,000.00 respectively, unless the competitive sealed bid process is either not applicable or is determined by the Director not to be in the best interest of the County as outlined herein. Should the DeKalb County Organizational Act be hereafter amended to increase this bidding threshold so shall the amount in this Policy be changed.

B. DISSEMINATION OF INVITATION TO BID

Public notice of an Invitation to Bid shall be given as required by Georgia law and §18 of the DeKalb County Organizational Act. The public notice shall contain a general description of the purchase, shall state the location where documents may be obtained and the date, time and place of bid opening. Notice of any required bonding and insurance shall be included in the public notice. A copy of such notice shall be posted on the County's website. Any other methods of advertisement identified as likely to result in additional competition may be used in addition to required advertisement, at the discretion of the Director.

C. RECEIPT OF BID

No written bid shall be eligible for consideration by the County unless it is placed in a sealed envelope or package and actually received by the Purchasing and Contracting Department by the date and time specified in the Invitation to Bid. All bids shall be stamped or annotated with the date and time of receipt and secured until the designated opening time. Under no circumstances shall a bid delivered late be eligible for consideration by the County.

D. BID OPENING

Bids shall be opened publicly in the presence of one or more witnesses on the date and at the time and place designated in the Invitation to Bid. The name of each bidder, the purchase price contained in each bid, and such other information as the Director deems appropriate shall be announced as the bids are opened. A record of bid information shall be recorded and available for public inspection.

E. MODIFICATION OF BID

Any clerical mistake that is patently obvious on the face of a bid, subject to the limitations described below, may be corrected upon written request and verification, submitted by the bidder. A non-material omission in a bid may be corrected if the Director determines the correction to be in the County's best interest. Omissions affecting or relating to any of the following shall be deemed material and shall not be corrected after bid opening:

1. Price information; and
2. Any required bonding.

F. WITHDRAWAL OF BID

Bids may be withdrawn at any time prior to the bid opening. After bids have been publicly opened, withdrawal of bid shall be based upon the following:

The bidder shall give notice in writing of his claim of right to withdraw his bid due to an error within two business days after the conclusion of the bid opening procedure. Bids may be withdrawn from consideration if the price was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of the bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. The bidder's original work papers shall be the sole acceptable evidence of error and mistake if a request is made to withdraw the bid. If a bid is withdrawn under the authority of this provision, the lowest remaining responsive bid shall be deemed to be the low bid, and subject to other evaluative criteria.

G. BID EVALUATION

Bids shall be evaluated based on the requirements set forth in the Invitation to Bid. No criteria may be used in bid evaluation that is not specifically set forth in law, applicable County policies or the solicitation.

H. BID CANCELLATION

An Invitation to Bid may be canceled prior to opening date or any or all proposals may be rejected in whole or in part as may be specified in the solicitation, where it is in the best interest of the County. The reasons for any cancellation shall be made part of the bid file.

I. BID AWARD

1. Responsive and Responsible Bidder(s)

Subject to approval by the Governing Authority, bids shall be awarded to the responsible bidder(s) who have submitted the lowest cost responsive bid(s), highest revenue responsive bid(s), or whose bid represents the best value to the County.

2. Approval of Bid

All bid awards for amounts in excess of \$100,000.00(cost or revenue) shall be approved by the Governing Authority.

3. Rejection or Deferral of Bid

The Director may reject bids, or may defer bid awards to allow time for additional evaluation or review of bids or for other business purposes, consistent with the best interest of the County.

4. Disqualification of Bid

The following types of bids shall be disqualified for consideration for a bid award:

- a. A bid which is incomplete in any material aspect, element, or fact.
- b. A bid submitted without required bonds.
- c. A bid submitted by a Person on the Ineligible Source List.
- d. A bid submitted by a Person having been determined to be in violation of Part I, Section VII of this Policy.

5. Tie Bids

In the event two (2) or more responsive bids are tied for the lowest price and the other terms and conditions of the two (2) or more

bids are substantially the same, the bid shall be awarded to the local firm if only one of the bidders has its principal place of business in DeKalb County. If some or none to the tied bidders are DeKalb County based, then the bid shall be awarded to the metro Atlanta firm if only one of the remaining bidders has its principal place of business in the metro Atlanta area. If all, some or none of the tied bidders are local firms (DeKalb County based, then metro Atlanta based in order of priority), then the bid award shall be made to the winner of a coin toss by purchasing staff in a public session. Bidders will be invited to attend and one or more witnesses may be present.

SECTION V COMPETITIVE SEALED PROPOSAL

A. ACQUISITIONS IN EXCESS OF \$50,000.00

Unless otherwise provided herein, formal sealed proposals must be obtained for any item or service which is expected to cost or generate revenue in excess of \$50,000.00 or \$100,000 respectively and for which the competitive sealed bid process is either not applicable or is determined by the Director not to be in the best interest of the County as outlined herein.

Should the DeKalb County Organizational Act be hereafter amended to increase this bidding threshold so shall the amount in this Policy be changed.

B. DISSEMINATION OF PROPOSAL

Proposals shall be disseminated through a Request for Proposal. Public notice shall be advertised as required by Georgia law and §18 of the DeKalb County Organizational Act. The public notice shall contain a general description of the item or service to be purchased, shall state the location where documents may be obtained and the date, time and place of proposal receipt. Notice of any required bonding and insurance shall be included in the public notice. A copy of such notice shall be posted on the County's website. Any other methods of advertisement identified as likely to result in additional competition may be used in addition to required advertisement, at the discretion of the Director.

C. RECEIPT OF PROPOSAL

No written proposal shall be eligible for consideration by the County unless it is placed in a sealed envelope or package and actually received by the Purchasing and Contracting Department by the date and time specified in the Request for Proposals. All proposals shall be stamped or

annotated with the date and time of receipt and secured until the designated opening time. A proposal delivered late shall under no circumstances be eligible for consideration by the County.

D. PROPOSAL OPENING

Proposals shall be opened publicly in the presence of one or more witnesses on the date and at the time and place designated in the Request for Proposals. The name of each Proposer shall be announced.

E. PROPOSAL CANCELLATION

A Request for Proposals may be canceled prior to opening date or any or all proposals may be rejected in whole or in part as may be specified in the solicitation, where it is in the best interest of the County. The reasons for any cancellation shall be made part of the proposal file.

F. PROPRIETARY INFORMATION

Information submitted by a Proposer that is specifically marked “proprietary” shall not be disclosed by the County to other Persons without prior email notification to the Proposer at the email address given by the Proposer for such notification. The County will comply with any applicable law regarding disclosure, including the Georgia Open Records Act, O.C.G.A. § 50-18-70,*et seq.* and advises Proposers that entire proposals may not be deemed “proprietary.”

G. EVALUATION OF PROPOSAL

1. Initial Evaluation

Each proposal shall be evaluated to determine whether it is responsive to the specifications and other terms and conditions contained in the Request for Proposals. With the approval of the Purchasing and Contracting Department employee named in the solicitation, the evaluating team may communicate with each proposer to clarify each Proposer’s proposal. No information concerning any other Proposer’s proposal shall be communicated in any way to the Proposer.

2. Request for Supplemental Information

Additional information may be requested of Proposers. The Purchasing and Contracting Department will initiate such requests.

H. AWARD OF PROPOSAL

1. Responsive and Responsible Proposal

Award shall be made to the responsive and responsible proposer whose proposal is determined to be the most advantageous to the County based upon the evaluation factors set forth in the Request for Proposal.

In the event scores rounded to the nearest whole number result in a tie score, two (2) additional points will be added to the graded average score of any local firm.

In the event there are two or more local firms whose scores rounded to the nearest whole number result in a tie score, the award will be based on lowest cost.

2. Approval of Proposal

The Governing Authority shall approve all awards where cost or revenue is in excess of \$100,000.00.

3. Rejection or Deferral of Proposal

The Director may reject, or may defer an award for any proposal when he or she deems such action to be in the best interest of the County.

4. Disqualification of Proposal

The following types of proposals shall be disqualified for consideration for award:

- a. A proposal submitted without required bonds.
- b. A proposal submitted by a Person on the Ineligible Source List.
- c. A proposal which is incomplete in any material fact.
- d. A proposal submitted by a Person having been determined to be in violation of Part I, Section VII of this Policy.

SECTION VI INFORMAL PURCHASE

A. GENERAL

Procurements that involve amounts less than \$50,000.00 do not require a formal sealed bid/proposal process. This threshold will change as the DeKalb Organizational Act is amended. However, the processes used for this type of procurement will include as much competition as is consistent with the anticipated cost of the procurement and the best interest of the County as determined by the Director or relevant Department Head, as appropriate.

B. PROHIBITION OF IMPROPER USE OF INFORMAL PURCHASE PROCESS

Purchases may not be artificially divided as to constitute an informal purchase, thereby circumventing the dollar limit requirement for competitive sealed bids/proposals.

C. PROCEDURES

Procurement within this category shall be made in accordance with the informal purchase procedures established by the Director. These procedures will cover purchases delegated to user departments as well as those handled through the central procurement process.

Such operational procedures shall provide for obtaining adequate and reasonable competition for the supply, service or construction being purchased. Further, such operational procedures shall require the preparation and maintenance of written records to adequately document the competition obtained, properly account for the funds expended and facilitate audit/review of the transaction.

D. TYPES OF INFORMAL PURCHASES

Informal purchases are classified by two categories:

1. Those that may be made directly by the using department.
2. Those that are required to be made through the central procurement process.

E. INFORMAL PURCHASE BY USER DEPARTMENTS

1. AUTHORITY

Each user department is granted the authority, at the discretion of the Department Director, to handle purchases where the cost is less than \$25,000.00. Three telephone quotations are required for purchases where cost is \$5,000.00 or greater but less than \$25,000.00. Each Department Director shall keep written documentation of applicable phone quotations and receipts for each purchase in separate files for auditing purposes, and copies of all such documentation shall be forwarded to the Purchasing and Contracting Department annually before January 10 for each prior calendar year.

2. PROHIBITION OF MISUSE

Purchases may not be artificially divided in order to qualify for handling by the using departments. Neither shall this process be used for frequently recurring acquisitions that warrant volume purchases or periodic term contracts.

F. INFORMAL PURCHASES BY PURCHASING STAFF

Purchasing staff shall obtain commodities and services competitively through written quotations where cost is \$25,000.00 to \$50,000.00. A minimum of five (5) written quotations is required unless adequate source supply is not available.

SECTION VII SOLE SOURCE PURCHASE

Based upon evidence that a particular commodity or service may be obtained from only one source and no similar commodity or service available from a different source will adequately meet an acquiring office's requirements and specifications, the Director may decide that the commodity or service be purchased sole source or by reference to a brand name based upon supporting documentation from the requesting department. All such purchases where cost is in excess of \$100,000.00 shall be approved by official action of the Governing Authority.

SECTION VIII EMERGENCY PURCHASE

The Director shall have the authority to purchase commodities and services where there exists an emergency constituting an imminent threat to public health or safety or the loss of an essential government service.

Acquisitions shall be made using such competitive procedures as circumstances reasonably permit. Emergencies shall be documented by the user department and submitted to the Purchasing and Contracting Department.

When a situation exists where time does not permit involvement of the Purchasing and Contracting Department, the Department Director is authorized to purchase necessary commodities or to make necessary repairs.

For emergencies where cost exceeds the amount authorized to a using department, written documentation shall be prepared and submitted to the Purchasing and Contracting Department explaining the nature of the emergency. All emergencies where cost is in excess of \$100,000.00 require ratification by official action of the Governing Authority.

SECTION IX COOPERATIVE PURCHASE

The County may participate in a cooperative purchase for commodities, supplies and services when determined by the Director that it is in the best interest of the County. The sponsoring entity, whether federal, state or local must have performed a competitive procurement process and entered into a contract that stipulates allowance for other governmental entities to purchase from the supplier at the same price and under the same terms and conditions as extended to itself. If such arrangement has not been made a part of the contract, written permission from the sponsoring entity and the awarded supplier must be obtained. Documentation to substantiate this decision will be maintained by the Purchasing and Contracting Department.

Cooperative purchases where the cost is in excess of \$100,000.00 shall be approved by official action of the Governing Authority.

PART 4

PROFESSIONAL SERVICES

SECTION I GENERAL

It is the policy of this County to award contracts for professional services on the basis of demonstrated competence and qualifications at a fair and reasonable price with ultimate selection based on the best interest of the County and receipt of maximum value.

SECTION II SELECTION PROCESS

A. The selection process for professional services shall follow the same process as that for competitive sealed proposals presented in Part 3, Section IV, unless exempted

B. The Director shall establish methods for weighting the variables and factors utilized for evaluation of proposals.

SECTION III RESPONSIBILITY FOR PROCESS

The user departments will have primary responsibility for establishing proposal requirements and evaluation of the proposals while the Purchasing and Contracting Department will ensure that the process is handled in accordance with this Policy. Any agent or firm employed to assist in any procurement project shall be required to adhere to the requirements of this Policy.

PART 5

CONSTRUCTION ACQUISITION

SECTION I DELEGATIONS OF AUTHORITY

Department Directors shall have the authority to establish procedures, with the concurrence of the Director, for utilizing the various construction delivery methods that will best serve the County's interests. These procedures may include but are not limited to establishing a process for mandatory pre-qualification of contractors. Department Directors have the authority to determine, with the concurrence of the Director, the construction delivery method to be utilized in awarding a given public works contract. In all cases, Department Directors shall be required to obtain the concurrence of the Director prior to establishing any method of delivery.

SECTION II DISCRETIONARY REQUIREMENTS

The County may, in its discretion, require bid, performance, and payment bonds for any public works construction contract where cost is \$100,000.00 or less.

PART 6

CONTRACTING REQUIREMENTS

SECTION I BONDING REQUIREMENTS

A. BID BONDS

When the County requires bonding, any bid submitted shall be given a good and sufficient surety or sureties approved by the County. Such bid bond shall secure the faithful acceptance by the bidder or proposer of a bid or proposal award and shall be issued for the protection of the County. The bid bond shall be in an amount as specified in the bid or proposal but in no case shall it be less than 5% of the contract price. Bonds shall be of a forfeiture type. All sureties should be licensed to do business in the State of Georgia, must have the ratings established by the Finance Department and be listed in the Department of Treasury's publication of companies holding certificates of authority as acceptable reinsuring companies. In lieu of the bid bond described above, a bidder or proposer may submit with the bid or proposal a cashier's check payable to the County in an amount as specified in the bid or proposal but in no case shall it be less than 5% of the contract price. To the extent permitted by Georgia law, an irrevocable letter of credit in the proper amount will act as a bid bond, provided that the form of such irrevocable letter of credit and the lending institution have been approved by the County in advance.

Release of bonds to the successful bidder shall be conditioned upon the bidder's execution of a contract within thirty (30) days following the County's award.

B. PERFORMANCE AND PAYMENT BOND

1. Any required performance bond shall be issued with good and sufficient surety or sureties approved by the County, in favor of the County and in at least the amount of the total purchase price or as specified in the solicitation and payable under the bid or proposal and shall be increased as the contract amount increases. Such performance bond shall be conditioned upon the bidder's faithful performance of the terms of the bid or proposal and the contract executed in connection therewith. All sureties must be licensed to do business in the State of Georgia, must have the ratings established by the Finance Department and be listed in the Department of Treasury's publication of companies holding certificates of authority as acceptable surety on federal bonds and as acceptable reinsuring companies.

2. Any required payment bond shall be issued with good and sufficient surety or sureties approved by the County, in favor of the County and in at least the amount of the total purchase price or as specified in the solicitation and payable under the bid or proposal and shall be increased if requested by the County as the contract amount is increased. Such payment bond shall be for the protection of all subcontractors and all persons supplying labor, materials, machinery and equipment in the prosecution of the work provided in the contract. All sureties must be licensed to do business in the State of Georgia, must have the ratings established by the Finance Department and be listed in the Department of Treasury's publication of companies holding certificates of authority as acceptable surety on federal bonds and as acceptable reinsuring companies.

C. INSURANCE REQUIREMENTS

The County shall determine what types and amounts of insurance coverage are reasonably necessary for the protection of the County's interests for all acquisitions covered by this Purchasing Policy. Sureties and carriers must be licensed to do business in the State of Georgia and must have ratings established by the Finance Department. The Director, with the recommendation of the Deputy Director of Finance/Risk Management, shall have the authority to waive or modify any requirements regarding insurance.

D. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED

It is the policy of DeKalb County that unauthorized aliens shall not be employed to perform work on County contracts involving the physical performance of services. Therefore, the County shall not enter into a contract for the physical performance of services within the State of Georgia unless the contractor shall provide evidence on County-provided forms that it and its subcontractors have registered for and are participating in the federal work authorization program as defined by O.C.G.A. § 13-10-90(3) to verify information of all new employees. The Purchasing and Contracting Department with the assistance of the County's Internal Audit staff shall be authorized to conduct random audits of a contractor's or subcontractors' compliance with O.C.G.A. § 13-10-91 and the rules and regulations of the Georgia Department of Labor. The contractor and subcontractors shall retain all documents and records of its compliance for a period of three (3) years following completion of the contract. This requirement shall apply to all contracts for the physical performance of services with the County.

Whenever it appears that a contractor's or subcontractor's records are not sufficient to verify the work eligibility of any individual in the employ of such contractor or subcontractor, the Director shall report same to the Department of Homeland Security.

A contractor's failure to participate in the federal work authorization program as defined by O.C.G.A. § 13-10-90(3) may be sanctioned by termination of the contract. If it is determined that a subcontractor is not participating in the federal work authorization program as defined by O.C.G.A. § 13-10-90(3), DeKalb County may direct the contractor to terminate that subcontractor. A contractor's failure to follow DeKalb County's instruction to terminate a subcontractor that is not participating in the federal work authorization program as defined by O.C.G.A. § 13-10-90(3) may be sanctioned by termination of the contract.

The above requirements shall be in addition to the requirements of state and federal law, and shall be construed to be in conformity with those laws.

SECTION II RESPONSIBILITY OF BIDDERS

A. DETERMINATION OF NON-RESPONSIBILITY

If a bidder or offeror who otherwise would have been awarded a contract is found to be non-responsible, a written determination of non-responsibility shall be prepared by the Purchasing and Contracting Department and forwarded to the bidder or offeror. A copy of the determination shall be made part of the solicitation file and vendor performance files.

B. VENDOR PERFORMANCE RATING

The Director is authorized to establish a vendor performance rating system for use in eliminating those suppliers who fail to perform or who perform unsatisfactorily. Rating systems may be used for evaluation and award purposes.

C. PENALTIES FOR NON-PERFORMANCE

Penalties for non-performance are outlined in the County's contracts. Additionally, continual failure to respond to bid or proposal solicitations may result in removal from the DeKalb County's bidder's list, and possibly being placed on the Ineligible Source List.

D. INELIGIBLE SOURCE LIST

1. ESTABLISHMENT OF LIST

A Person may be placed on an Ineligible Source List for a reasonable period of time, not to exceed three years, based upon the recommendation of the Director and the approval of the PAC for the following reasons:

- a. Any Person who submits a bid or proposal in bad faith;
- b. Any Person who willfully or repeatedly breaches a contract(s) with the County;
- c. Any Person who repeatedly refuses to accept a bid or proposal award;
- d. Any Person who has established a pattern or practice of unethical or immoral business practices;
- e. Any Person who has been convicted of a crime involving moral turpitude;
- f. Any Person who is controlled or managed, in whole or in part, by any other person described in (a) through (e) above;
- g. Any Person who establishes a pattern of violating Part 6, Section I.D. above;
- h. Any Person who has a pending lawsuit against the County or has filed a lawsuit against the County within the previous three years concerning a dispute with the County, its officials or employees related to the provision of goods, commodities, services, or construction by that Person. This does not include tax appeals, or lawsuits or claims filed pursuant to O.C.G.A. § 45-1-4; or
- i. Any Person who is the subject of a claim or lawsuit filed by the County concerning goods, commodities, services or construction provided by that Person.

Any such Person placed on the Ineligible Source List shall not be eligible to provide any commodities or services to the County during the period such Person remains on the Ineligible Source List.

SECTION III COLLUSIVE OR ANTI-COMPETITIVE PRACTICES

Each bidder shall certify in writing that such bidder has not engaged in any collusive or anti-competitive practices in responding to a solicitation for bids or proposals.

SECTION IV APPROVAL OF CONTRACTS

A. GENERAL PROVISIONS

All formal, written contracts shall be reviewed and approved as to form by the Law Department prior to execution by either party. All contracts shall conform to state and federal law and to County policies and shall otherwise contain such provisions as are reasonably necessary to protect the interests of the County.

B. CHIEF EXECUTIVE OFFICER AUTHORITY

The County's Chief Executive Officer or his/her designee shall have the authority to sign all formal, written contracts. Those contracts in excess of \$100,000.00 shall be signed after adoption and approval of the purchase by official action of the Governing Authority.

SECTION V CHANGE ORDERS AND CONTRACT MODIFICATIONS

A. GENERAL PROVISIONS

Except as hereinafter provided, any change order or other modification of a contract term shall be approved by official action of the Governing Authority.

B. CHIEF EXECUTIVE OFFICER AUTHORITY

The County's Chief Executive Officer or his/her designee shall have authority to approve all change orders to contracts up to an absolute value of 20% of the original contract, provided the total change order amount is less than \$100,000.00. If the original contract or purchase order price does not exceed \$100,000.00, but the Change Order will make the total price of the contract exceed \$100,000.00, then the change order requires approval by official action of the Governing Authority. Change Orders to contracts that did not require official action of the Governing Authority upon the original execution thereof and which amend the scope of work, term, time, and/or total cost not exceeding \$100,000 may be approved by the Chief

Executive Officer or his designees in the same manner as the original contract.

SECTION VI EMERGENCY CIRCUMSTANCES FOR CHANGE ORDERS

Where emergency circumstances exist which will not permit delay of a project, the user department director shall notify the Director and the Executive Assistant/Chief Operating Officer before proceeding to authorize work pursuant to an emergency change order. If the emergency change order requires approval by the Governing Authority, the emergency change order must be ratified by official action of the Governing Authority at a future Board of Commissioners' meeting and the reason for the emergency must be contained in the minutes of the meeting.

SECTION VII SPECIFICATIONS

All specifications shall be prepared by using departments so as to promote overall economy for the purposes intended and encourage competition in satisfying the County's needs and shall not be overly restrictive. This Policy applies to all specifications including but not limited to those prepared for the County by architects, engineers, designers, draftsmen and third party service providers.

SECTION VIII TYPES AND USE OF SPECIFICATIONS

The Director is authorized to establish procedures for the applicability and appropriate use of "qualified products lists", "brand name or equal" specifications and "brand name" specifications.

SECTION IX RENEWALS AND EXTENSIONS

A. GENERAL PROVISIONS

Some contracts contain clauses describing the conditions under which it may be renewed. The user department(s) must certify in writing to the Purchasing and Contracting Department that the contractor(s) has performed satisfactorily and met all of the requirements set forth in the original award in order for a renewal to be approved/recommended.

In rare instances, contracts may require an extension for such a period as may be necessary to afford the County a continuous supply of items or services. The user department(s) must justify extensions in writing to the Purchasing and Contracting Department.

The Purchasing and Contracting Department, if in agreement, may seek approval as outlined in Section IX, B below.

B. APPROVAL AUTHORITY

The Governing Authority shall approve all renewals where total price of the contract, including the renewal amount, is in excess of \$100,000.00 or where the original contract was approved by action of the Governing Authority. The Chief Executive Officer or his/her designee may approve all other renewals.

The Governing Authority shall approve all extensions requiring additional funding if (1) the original contract price exceeded \$100,000.00; (2) the proposed extension will make the total price of the contract exceed \$100,000.00; or (3) the original contract was approved by action of the Governing Authority. The Chief Executive Officer or his/her designee may approve all other extensions. The Governing Authority may, through contract, delegate to the Chief Executive Officer or his/her designee the right to approve amendments that serve only to extend the time with no need for additional funding.

PART 7

DISPOSITION OF PROPERTY

SECTION I DECLARATION OF UNSERVICEABILITY

The Governing Authority shall determine whether a particular item or category of personal property can no longer be used advantageously by the County and has therefore become unserviceable. The Governing Authority may establish criteria establishing unserviceability for categories of personal property which may become unserviceable on a regular, frequently recurring basis, and may delegate to the Chief Executive Officer the determination of whether a particular commodity meets the criteria of unserviceability for its category.

SECTION II DISPOSITION

Unserviceable personal property may be sold by public sale, sealed bidding, spot bidding or any other means deemed most advantageous to the County under the particular circumstances as determined by the Governing Authority. A sale to a private person shall be for the highest net purchase price reasonably obtainable by the County. A sale to another unit of government shall be for a fair and reasonable purchase price that need not be as high as the purchase price obtainable from a private person. All sales for personal property items where the original unit purchase cost is \$25,000.00 or less shall be approved by the Chief Executive Officer. The Governing Authority shall approve sales for personal property where unit cost exceeds \$25,000.00.

PART 8

ELECTRONIC COMMERCE

SECTION I ELECTRONIC TRANSMISSIONS OF INFORMATION

Electronic commerce shall include but is not limited to on-line vendor registration, acceptance of bids and proposals by electronic mail, electronic or virtual purchasing malls and catalogs, internet auctions and reverse auctions, notifications of solicitations and download capability and acceptance of electronic (digital) signatures.

Notwithstanding any other provisions, this chapter applies to records generated, stored, processed, communicated, or used for any purpose by DeKalb County for purchasing, acquisition, services, or disposition of personal property. This shall apply to all DeKalb County contracts.

The Chief Executive Officer or his/her designee is authorized to promulgate procedures to coordinate, create, implement, and facilitate the use of common approaches and technical infrastructure, as appropriate, to enhance the utilization of electronic commerce, electronic records, electronic signatures, and electronic security procedures by and for DeKalb County for these purposes.

The Chief Executive Officer or his/her designee shall be authorized to develop, implement, and facilitate procedures for the use of electronic records, electronic signatures, and security procedures for all other purposes and is authorized to promulgate methods, means, and standards for secure electronic procurement transactions.

SECTION II ELECTRONIC SIGNATURES AND RECORDS

An electronic record satisfies any rule requiring a document to be in writing. An electronic signature satisfies any rule of law requiring a signature. Any electronic record is signed as a matter of law if it contains a secure electronic signature.

An electronic signature is deemed to be secure if it is created by application of a security procedure that is commercially reasonable and provided the electronic signature can be verified. Further, it is considered secure if it can be linked to the electronic record to which it relates in a manner such that, if the record is changed, the electronic signature is invalidated.

An electronic record is deemed to be secure if it is created by application of a security procedure that is commercially reasonable and agreed to by DeKalb

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County. The electronic record will be deemed secure when it can be verified not to have been altered since a specified point in time.

PART 9

SEVERABILITY

Should any court of this state declare any section, part, paragraph or clause of this Policy unconstitutional or invalid for any cause or reason, then such decision shall affect only that section, part, paragraph or clause so declared to be unconstitutional or invalid, and shall not affect any other section, part, paragraph or clause of this Policy.

PART 10

DEFINITIONS

1. Absolute Value: The numerical value of an acquisition or change order request without regard to its sign.
2. Acquiring Office: The department, division, board, authority, or other unit of DeKalb County government under whose authority, on whose behalf, or for whose use a commodity, service, or real property is requested or acquired or a contract or agreement relating thereto is obtained.
3. Acquisition: A transaction in which the County purchases, orders, contracts for, or otherwise agrees to obtain for value any commodity, or service, or combination thereof.
4. Bid: Submission of information from a bidder that describes the bidder's commodities or services, and any other information necessary to respond to the specifications and other requirements set forth in an Invitation to Bid.
5. Brand Name or Equal Specification: A specification limited to one or more items by manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other salient characteristics needed to meet County requirements, and which provides for the submission of equivalent products.
6. Brand Name Specifications: A specification limited to one or more items by manufacturers' names or catalogue numbers.
7. Business: Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.
8. Change Order: A written order that alters any term or provision of a two-party contract or purchase order, including but not limited to revisions that change the scope of the work to be furnished, the product to be purchased, the price of the purchase, and/or the length of the term of the contract or purchase order.
9. Commodity: A discrete and distinct item of tangible personal property, including, without limitation, any such item which is intended to become an integrated part of another item of tangible personal property or of any improvement to real property.
10. Confidential Information: Any information which is available to an employee only because of the employee's status as an employee of DeKalb County and is not a matter of public knowledge or available to the public on request.
11. Consultant: A person who has expertise because of education or experience that qualifies him or her to provide specialized services or advice.

12. Contract: Any agreement, purchase order, lease, or other document which creates or is intended to create binding reciprocal obligations including, without limitation, any document evidencing a bid or proposal award which has been accepted by the bidder.
13. Contractor: Any person who contracts to provide commodities or services to the County.
14. Cooperative Purchase: An arrangement whereby two or more public procurement units purchased from the same supplier using a single Invitation to Bid or Request for Proposal.
15. Department Director: The director of the user department requesting the acquisition or disposition.
16. Director: The Purchasing Director/Chief Procurement Officer or his/her designee.
17. Employee/Official: An individual drawing a salary or wage from DeKalb County, whether elected or not, any member of a board appointed by the governing authority, or any elected or appointed officer of DeKalb County.
18. Formal, Written Contract: written agreement between DeKalb County and third-party supplier(s) which creates or is intended to create binding reciprocal obligations to purchase products or services and contains the terms and obligations which the parties must adhere to. Formal, written agreements may be signed by more than two parties and require Law Department approval.
19. Immediate Family: A spouse, children, parents, brothers, sisters, mother in-law and father in-law.
20. Ineligible Source List: An approved compilation of individuals, firms, and/or businesses that are not eligible to participate as a bidder/proposer, and that are not eligible to contract with DeKalb County for a period of time up to three years.
21. Invitation to Bid: A method of formal solicitation requesting prospective third-party suppliers to submit formal sealed price bids. The award is made to the lowest responsible and responsive bidder, based on the response criteria set forth in the Invitation to Bid.
22. Local Firm:
 - a. Any business or firm having a principal office located within the boundaries of DeKalb County and has held a DeKalb County Occupational Tax Certificate for a minimum of one (1) year prior to closing date of solicitation for which the offer has been submitted; or
 - b. Any business or firm with a principal office located within the boundaries of a municipality that is within the geographical boundaries of DeKalb County and whose physical location is within the geographical boundaries of DeKalb County and has held an Occupational Tax Certificate (or its equivalent) issued by the municipality for a

minimum of one (1) year prior to closing date of solicitation for which the offer has been submitted.

23. Material Fact: One which constitutes substantially the consideration of the contract, or without which it would not have been made.
24. Multiyear Contract: An agreement that lasts longer than a twelve-month period as permitted by O.C.G.A § 36-60-13 and has been duly approved under the authority of this Policy. In determining which method of approval will be utilized for such multiyear contracts, the combined total potential cost to the County for all years of the proposed multiyear contract shall serve as the dollar threshold.
25. Offeror: Any person who has submitted a bid, quotation or proposal to the County or otherwise offered to form a contract with the County.
26. Person: Any individual, firm, business or other legal entity.
27. Professional Service: A service consisting in material part of advice, evaluation, planning, design, or other effort involving the exercise of judgment, discretion, and knowledge, including, without limitation, a service provided by a person whose profession is licensed or regulated by the state or federal government.
28. Proposal: Submission of information from a proposer (including a consultant) which states how that proposer intends to fulfill the specifications and other requirements described in a Request for Proposal.
29. Purchase Order: A written sales contract between the County and third party supplier(s) authorizing the delivery of goods or services and detailing the exact products or services to be rendered including such information as prices, descriptions, payment terms, quantities, date of performance, shipping and all other conditions and obligations. A purchase order is a contract but does not need Law department approval.
30. Qualified Products List: An approved list of supplies, services or construction items described by model or catalogue numbers, which prior to competitive solicitation, the County has determined will meet the applicable specification requirements.
31. Request for Proposals: A method of formal solicitation whereby sealed responses are requested from third-party suppliers and the award is made to the offeror whose proposal is determined to be the most advantageous to the County.
32. Responsible Bidder: A person who has the capability in all respects to perform fully the contract requirements, and the experience, reliability, capacity, facilities, equipment and credit which will assure good faith performance.
33. Responsive Bidder: A person who has submitted a bid or proposal that conforms in all material respects to the requirements set forth in the invitation to bids or request for proposals.

34. Services: All support functions and activities purchased from a third-party supplier to support the operations of DeKalb County, including but not limited to subcontractors, consulting, repair and maintenance, printing, information services, and accounting.
35. Specification: In connection with a solicitation, a list or description of the characteristics of the commodities or services which will meet the County's requirements.
36. User Department: Any agency or office, whether headed by an appointed or elected official, for which the governing authority has budgetary responsibility and which is not exempt from the terms of this Policy.