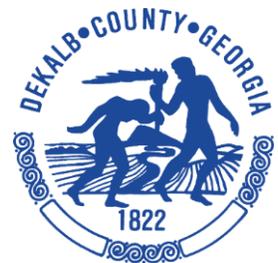


Report No. 2017-008-PC
January 2018

DEKALB COUNTY GOVERNMENT
Purchasing and Contracting Department

FINAL REPORT



John L. Greene, CIA, CIG, CGAP, CGFM
Chief Audit Executive

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**AUDIT OF DEKALB COUNTY
PURCHASING POLICY
AUDIT REPORT NO. 2017-008-PC**

What We Did

In accordance with the Office of Independent Internal Audit (OIIA) Audit Plan for fiscal year 2017, we conducted a performance audit on the DeKalb County Purchasing Policy. We examined the current purchasing policy and 2015 draft purchasing ordinance to determine whether it:

- Contained the key contracting processes and elements consistent with the principles of the National Institute of Governmental Purchasing (NIGP)
- Complied with the Official Code of Georgia Annotated (O.C.G.A.)

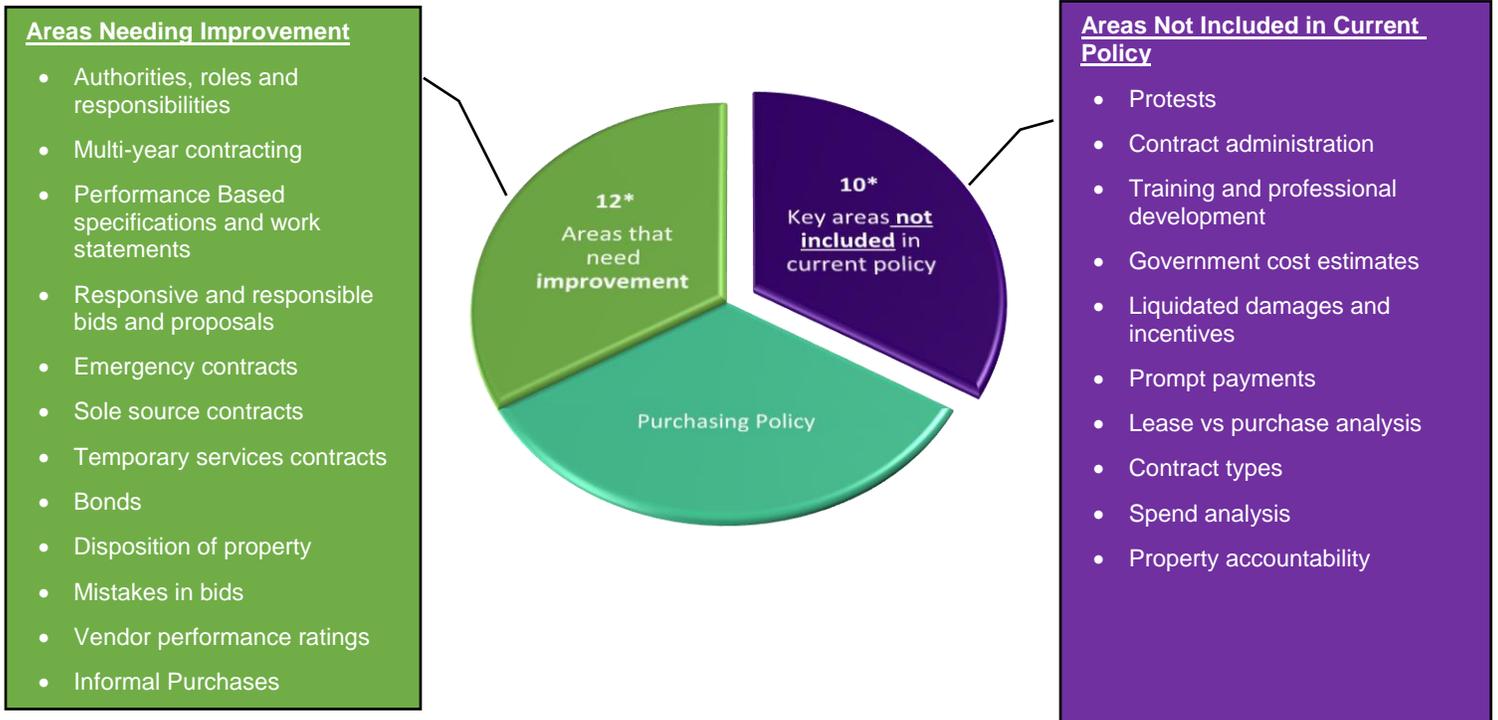
We benchmarked the policy to the Federal Acquisition Regulations (FAR) and other Federal laws (such the Code of Federal Regulations and US Codes) , the Georgia Procurement Manual (GPM), American Bar Association’s (ABA) “Model Procurement Code for State and Local Governments” and procurement policies of other metro Atlanta counties throughout Georgia to identify better practices.

What We Found

We found that the DeKalb County Purchasing Policy needs improvement to address key contracting processes and functions prescribed in the NIGP and be consistent with the O.C.G.A. The County’s purchasing policy does address several key areas that are consistent with the NIGP and guidance in the FAR, GPM, and other counties throughout Georgia such as ethics, source selection techniques (including sealed bids, sealed proposals, and informal purchases), prohibition of split purchases, cooperative purchases, disposition of surplus personal property, restrictive specifications and debarment actions.

In addition, the current policy does not contain several key contracting areas and some areas included in the current policy need to be strengthened to be fully consistent with the NIGP, O.C.G.A. and better practices. Please see the diagram on the following page that outlines the twelve areas that need improvements and ten key areas not included in current policy.

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**



What We Recommend

The Chief Procurement Officer (CPO) – Purchasing and Contracting Department, in consultation with the Purchasing Advisory Committee (PAC) and the County Law Department should:

- Revise the current purchasing policy to address the opportunities identified in this report, other key elements of the NIGP and ensure full conformance with the O.C.G.A.
- Review the FAR, GPM, NIGP, purchasing policies of similar counties and other best practices to identify other opportunities to further enhance the purchasing policy. Proposed revisions should be submitted to the DeKalb County Board of Commissioners (BOC) for review and approval
- Periodically review the purchasing policy to ensure the policy continues to effectively meet needs of the County

Table of Contents

BACKGROUND AND INTRODUCTION	6
AUDIT RESULTS	7
FINDING: SEVERAL KEY PROCUREMENT AREAS ARE NOT INCLUDED OR NEEDS IMPROVEMENT IN THE PURCHASING POLICY	7
APPENDIX	10
Appendix I- Purpose, Scope and Methodology	10
Appendix II- Management Response	11
Appendix III- Better Practices Identified for Areas Missing from Purchasing Policy ..	12
Appendix IV- Criteria/Better Practices/Sources/Benefits Identified for Areas Needing Improvement to Procurement Policy	31
DISTRIBUTION	54
PROJECT TEAM	55
STATEMENT OF ACCORDANCE	56

BACKGROUND AND INTRODUCTION

The NIGP is a national, membership-based non-profit organization providing support to professionals in the public sector procurement profession. The NIGP prescribes the standards that public organizations should develop in their procurement manual. According to the NIGP "Principles and Practices of Public Procurement," procurement organizations should develop a comprehensive policy manual that clearly defines authority, responsibility, and establishes guidelines for the organization and the procurement professional to follow when carrying out their responsibilities.

The O.C.G.A specifies procurement related laws, codes and statutes, applicable to the state of Georgia, counties and municipalities. The current purchasing policy mandates that the County shall conform to all applicable provisions of the laws of the United States and of the State of Georgia.

The FAR is the primary regulation for use by all Federal agencies in their acquisition of supplies and services with appropriated funds. It became effective on April 1, 1984, and provides for coordination, simplicity, and uniformity in the Federal acquisition process. The GPM, dated February 2011, is the official source for all administrative rules issued by the Georgia Department of Administrative Services to govern purchases made by certain state government entities. Both the FAR and GPM serve as relevant resources/guides for County purchasing policy and may be applicable to the County within the context of Federal and/or state grant funding requirements.

The 2000 ABA Model Procurement Code for State and Local Governments provides statutory principles and policy guidance for managing and controlling the procurement for public purposes, administrative and judicial remedies for the resolution of controversies relating to public contracts and the set of ethical standards governing public and private participants in the procurement process. The Code was approved by the policymaking body of the ABA (its House of Delegates) on July 11, 2000. The NIGP participated in the development of the ABA Model Procurement Code for State and Local Governments.

The DeKalb County Purchasing Policy, dated August 6, 2014, is the latest official purchasing policy within DeKalb County. A draft purchasing ordinance was prepared in 2015. Based on our review there was no significant difference from the official Purchasing Policy. In 2015, Section 18 of House Bill 598 was amended to include the Board of Commissioners (BOC) in the policy making process for all purchasing issues. Before this amendment, the Chief Executive Officer had the unilateral power to enact and amend the DeKalb County Purchasing Policy.

The DeKalb County Department of Purchasing and Contracting is responsible for establishing, implementing and enforcing all purchasing procedures in accordance with Georgia law and the County policy. The CPO is responsible for the administration of all transactions governed by the County's purchasing policy and shall serve as the principal procurement officer of the County.

"A PAC shall be established (by CPO - Purchasing and Contracting Department) 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 CPO and will serve for two year staggered terms. The Committee shall meet periodically (at least annually) to review purchasing

procedures and make recommendations for changes...”¹ The BOC will have the approval authority for the changes.

AUDIT RESULTS

During this engagement, the OIIA examined the NIGP and O.C.G.A. and benchmarked the DeKalb County Purchasing Policy to the FAR and other Federal laws (such the Code of Federal Regulations and US Codes) , GPM, ABA “Model Procurement Code” and procurement policies of other counties throughout Georgia to identify better practices.

As a result, we identified several opportunities to strengthen the current Purchasing Policy as outlined in our finding and recommendation below.

In addition, our audit identified some better practices for consideration in addressing the key procurement areas missing from the Purchase Policy (Appendix III) or areas needing improvement in the Purchasing Policy. (Appendix IV)

FINDING: SEVERAL KEY PROCUREMENT AREAS ARE NOT INCLUDED OR NEEDS IMPROVEMENT IN THE PURCHASING POLICY

Objective: Determine if the DeKalb County Purchasing Policy contains the key elements to facilitate an effective procurement process that is consistent with the principles of the NIGP and in compliance with applicable sections of the O.C.G.A.

Criteria: According to the NIGP, procurement organizations should develop a comprehensive policy manual that clearly defines authority, responsibility, and establishes guidelines for the organization and the procurement professional to follow when carrying out their responsibilities.

Article 13 and Article 36 of the O.C.G.A. specifies the procurement laws for the state, counties, and municipalities of Georgia.

The FAR (and other Federal regulations and laws), GPM, ABA and other counties purchasing policies throughout Georgia provide guidance and serve as a basis for benchmarking better business practices.

Condition: The DeKalb County Purchasing Policy includes several key procurement areas that are addressed in the NIGP such as authority and role of the Chief Procurement Officer, types of source selection (sealed bids, proposals, and cooperative agreements), restrictive specifications, surplus disposition of personal property, prohibition of split purchasing, ethics, professional services and withdrawal of bids. Our examination identified several key procurement areas that are missing from the Purchasing Policy. In addition, some key contracting areas included in the purchasing policy need improvement to strengthen consistency with the NIGP and be compliant with the O.C.G.A. as highlighted in the table on following page.

¹ Dekalb County Purchasing policy, August 6, 2014 – Section IV

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

Areas not included in current policy	Included areas that need improvement
<ul style="list-style-type: none"> • Protests • Contract administration • Training and professional development • Government cost estimates • Liquidated damages and incentives • Prompt payments • Lease vs purchase analysis • Contract types • Spend analysis • Property accountability 	<ul style="list-style-type: none"> • Authorities, roles and responsibilities • Multi-Year contracting • Performance based specifications and work statements • Responsive and responsible bids and proposals • Emergency contracts • Sole source contracts • Temporary services contracts • Bonds • Disposition of property • Mistakes in bids • Vendor performance ratings • Informal purchases

Please see the Appendix III and IV for further details on areas that are missing and areas that need improvement.

OIIA noted that the Purchasing department is in the process of drafting a County Procurement Protest policy. We examined the draft document as of August 18, 2017 and noted that so far it does address some of the relevant key elements/better practices of a protest policy identified in Appendix III.

Consequence: A purchasing and contracting policy not consistent with the NIGP and non-compliant with the O.C.G.A. impairs the County’s ability to (1) clearly define the roles and responsibilities of all parties involved in the contracting process, (2) mitigate risks to the County, (3) establish accountability for County personnel and (4) safeguard the County’s assets.

Recommendation:

The CPO – Purchasing and Contracting Department, in consultation with the PAC and the County Law Department, should:

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

- Revise the current purchasing policy to address the opportunities identified in this report, other key elements of the NIGP and ensure full conformance with the O.C.G.A.
- Review the FAR (and other Federal regulations and laws), GPM, NIGP, purchasing policies of similar counties and other best practices to identify other opportunities to further enhance the Purchasing Policy. Proposed revisions should be submitted to the BOC for review and approval
- Periodically review the purchasing policy to ensure the policy continues to effectively meet the needs of the County

APPENDIX

Appendix I- Purpose, Scope and Methodology

Purpose

The purpose of the engagement was to:

- Determine if the DeKalb County's purchasing policy contains the key elements to facilitate an effective procurement process that are consistent with the principles of the NIGP and in compliance with applicable sections of the O.C.G.A.
- Identify better practices to enhance the procurement and contracting processes of DeKalb County

Scope and Methodology

Our scope for the engagement was the current and draft DeKalb County Purchasing Policy. Our approach was to examine the Purchasing policy and compare it to the key contracting processes and elements prescribed in the NIGP and O.C.G.A. In addition, we benchmarked the policy to the Federal regulations and laws, the GPM, and other counties within Georgia to identify better practices to enhance the current policy.

Appendix II- Management Response



December 29, 2017

MEMORANDUM

TO: John L. Greene, Chief Audit Executive
FROM: Talisa R. Clark, Chief Procurement Officer
SUBJECT: Audit of the DeKalb County Purchasing Policy-Audit Report No 2017-008-PC

This memorandum will serve as official response to the Audit of the DeKalb County Purchasing Policy received on November 3, 2017. After review of the audit report, the Department of Purchasing and Contracting (P&C) provides the following responses for the audit recommendations listed below.

1. Revise the current purchasing policy to address the opportunities identified in this report, other key elements of the NIGP and ensure full conformance with the O.C.G.A.
 - a. **Already addressing through the development of a purchasing ordinance**
2. Review the FAR, GPM, NIGP, purchasing policies of similar counties and other best practices to identify other opportunities to further enhance the Purchasing Policy. Proposed revisions should be submitted to the DeKalb County Board of Commissioners (BOC) for review and approval
 - a. **Already addressing through the development of a purchasing ordinance**
3. Periodically review the purchasing policy to ensure the policy continues to effectively meet needs of the County
 - a. **Already addressing with the re-classification of the Procurement Projects Manager of the Special Projects Team to be responsible for the management and periodic review and updates to all procurement policies and procedures**

P&C concurs with the audit's findings and recommendations; and provided the same recommendations to the Procurement Ad Hoc Committee during a presentation regarding the current purchasing policy. The twelve (12) improvement recommendations will be addressed during the development of a purchasing ordinance. P&C is currently working with the Law Department to prepare a "draft" purchasing ordinance for the CEO's review and approval. Upon the CEO's approval, the purchasing ordinance will be presented to the BOC for approval per HB598. P&C recommend that it is important to include in the audit report that many of these recommendations were included in the County's previous purchasing policy.

The ten (10) recommendations of the excluded areas will also be addressed during the development of a purchasing ordinance. These areas have already been implemented or have been developed recently by P&C. With the Law Department's assistance, P&C has drafted a protest policy that will be included in the purchasing ordinance. Although several other areas identified in the audit, such as training and development, contract types, liquidated damages, contract administration, etc. was not specified in the current purchasing policy; P&C recommend that it is important to include in the audit report that many of these recommendations are best practices that are implemented, administered and/or included in the County's solicitations and executed contracts.

A set timeline is undetermined at this time, as the final approvals reside with the CEO and BOC Offices.

cc: Michael L. Thurmond, Chief Executive Officer
Zachary Williams, Chief Operating Officer
La'Keitha Carlos, Chief of Staff, CEO
Viviane Ernstes, Interim County Attorney
Terry G. Phillips, Senior Staff Attorney
Marian Adeiny, Assistant County Attorney

Appendix III- Better Practices Identified for Areas Missing from Purchasing Policy

*Superscript number(s) in the first column indicate the related reference(s) for the criteria/better practice.

Criteria/ Better Practices	References /Sources	Benefits of Revised Policy
<p>Protests</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> • The NIGP states that a procurement manual should provide guidance in regards to protests. It further states the policy be available publicly. At a minimum, the policy should state the: <ul style="list-style-type: none"> ✓ Rights of the party to protest ✓ Mandatory filing procedure such as timeframes to file protest ✓ Roles and responsibilities of procurement organization involved in protest ¹ <p><u>Better Practices:</u></p> <ul style="list-style-type: none"> • All protests must be in writing ^{1,2,3,4,5,6,8} • Define who can submit a protest - An interested party, in the context of administrative bid or proposal protest procedures, is “an actual or prospective bidder or proposer whose direct economic interest would be affected by the award 	<ol style="list-style-type: none"> 1. “Principles and Practices of Public Procurement-Protest” – NIGP http://engage.nigp.org/acton/attachment/24793/f-004a/1/-/-/-/global-best-practice---protests.pdf 2. Article V, Section 102-448 of <i>Fulton County Code of Ordinances</i> 3. Section VII of <i>Douglas County Board of Commissioners Purchasing Department Procurement Guide</i> 4. Section 6.5 of the <i>GPM</i> 5. Section 200.05 of <i>Fayette County Policies and Procedures</i> 6. Section 33.1 of <i>FAR</i> 	<ul style="list-style-type: none"> • Implementing protest procedures into the County’s purchasing policy will: <ul style="list-style-type: none"> ✓ Enhance the transparency and accountability in the County’s procurement process and the bid protest process ✓ Protest decisions made public provide a high level of transparency into what is happening in the County’s procurement system ✓ Increase potential bidders’ confidence in the integrity of the procurement process leading more players to participate ✓ Help clarify the rights, roles and responsibilities of the all parties involved in the protest process including,

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<p>of a contract or by the failure to award a contract^{1,4,5,6,8}</p> <ul style="list-style-type: none"> • Protest must not be prior to bid submittal⁵ • Protester should provide details (and supporting documentation) of factual or legal basis for protest and specific relief sought^{2,3,5} • Legal counsel should be made aware of and may advise on action regarding protests^{1,6} • Specify a reasonable time period/limit for protest submission^{1,2,3,4,5,8} • Indicate who has authority to settle /resolve any /all protests (e.g. Chief Procurement Officer)^{3,4,6,7,8} • If protest received prior to contract award/purchase order, then contract should not be awarded until protest has been settled unless delay in award would substantially impact interest of county. Subject to BOC approval⁸ • If protest received post award then it should also be considered by the PAC and BOC as required³ • Specify reasonable time period, after receipt of protest, for informing the protestor of decision (e.g. 15 days after receipt of protest)^{2,4,5,6} 	<p>7. Part 9 of Chatham County Purchasing Ordinance</p> <p>8. Paragraph 2-5-8.01, 2-5-8.02, 2-5-8.04 of Cherokee County Procurement Ordinance</p>	<p>County procurement officials and protesters</p>
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**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<ul style="list-style-type: none"> • Conducting a protest closeout assessment after a protest has been resolved supports continual improvement in the procurement process ¹ • If the vendor/protestor is not satisfied with the decision of the Chief Procurement Officer (CPO), the offeror may appeal to an independent authority, depending upon applicable law or the procedures of the entity ^{4,7,8} • Each step of the process should be accurately and thoroughly documented. Complete and maintained files serve to justify the protest decision, provide access to communication records, and ensure that the response to the protest is legally defensible ¹ • Specify which party is responsible for paying administrative expenses of protest submission ^{4,6} 		
<p>Contract Administration</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> • NIGP states that a procurement manual should define the roles and responsibilities of the procurement organization and other activities in the area of oversight of contract requirements. Contract administration is a vital process that ensures contractors are providing the required services for payments rendered ¹ 	<ol style="list-style-type: none"> 1. “Principles and Practices of Public Procurement-Performance Management” <i>NIGP</i> http://engage.nigp.org/acton/attachment/24793/f-01d0/1/-/-/-/performancemanagement.pdf 2. Sections 7.2, 7.3, and 7.4 of GPM 	<ul style="list-style-type: none"> • The benefit of an effective contract administration policy is to ensure: <ul style="list-style-type: none"> ✓ All County personnel involved in the procurement process have a clear understanding of both the County’s and the contractor’s respective obligations for the roles and responsibilities of

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<p><u>Better Practices:</u></p> <ul style="list-style-type: none"> • Identify the organizations, along with their roles and responsibilities, for ensuring contract deliverables are executed for county contracts ¹ • Define in the solicitation the requirements for the contractor quality control plan ³ • Establish a quality surveillance or administration plan that identifies the key performance factors to evaluate, the methods for measuring performance, and the timeframes for reporting performance against the measures ^{2,4} • Measure and track performance against the established measures and objectives ¹ • Performance must be documented in writing ² • Establish the impact of contractor non – performance (payment deductions, poor vendor ratings, election not to exercise option year, etc.) in the contract or quality surveillance plan ⁵ • Assess performance results to evaluate performance measures and goals in future contracts ¹ 	<ol style="list-style-type: none"> 3. Section 46.103 of FAR 4. Chapter 4 of <i>Office of Federal Procurement Policy Pamphlet Number 4</i> 5. Article V, Section 102-416 of <i>Fulton County Code of Ordinances</i> 	<p>inspection of contract performance</p> <ul style="list-style-type: none"> ✓ The county is receiving the expected services/goods
<p>Training and Professional Development</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> • The NIGP states a procurement policy should outline the: 	<ol style="list-style-type: none"> 1. “Principles and Practices of Public Procurement- Developing a Procurement Policy Manual” <i>NIGP</i> 	<ul style="list-style-type: none"> • This inclusion will help: <ul style="list-style-type: none"> ✓ Ensure procurement personnel have the knowledge and understanding of

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<ul style="list-style-type: none"> ✓ Technical and professional qualifications for management and professional staff ✓ Orientation and training for new employees involved in the procurement process ✓ Certification and educational requirements of professional staff ¹ <p><u>Better Practices:</u></p> <ul style="list-style-type: none"> • Specify the qualifications for the Director/CPO position ³ • Specify the minimum training requirements for procurement personnel ⁴ • Director should establish policies and procedures for education, training, career development, and performance incentives of procurement personnel ⁵ • Director should develop special training programs to assist LSBEs to conduct business with county ³ • Encourage procurement personnel to maximize opportunities for available training courses ⁴ 	<p>http://engage.nigp.org/acton/attachment/24793/f-00d3/1/-/-/-/DEVELOPING%20PROCUREMENT%20MANUAL%20UPDATED.pdf</p> <ol style="list-style-type: none"> 2. Article 2, Section 503 of 2000 <i>American Bar Association Model for Procurement</i> 3. Article V, Sections 102-363 and 435(H) of <i>Fulton County Code of Ordinances</i> 4. Sections 1.4.3 of <i>GPM</i> 5. Section 1703, paragraph c of <i>US Code 41</i> 	<p>procurement processes needed to effectively execute procurement operations.</p> <ul style="list-style-type: none"> ✓ Accelerate the training process for newly assigned procurement personnel.
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**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

Government Cost Estimates

Criteria:

- The NIGP states that procurement officials must investigate bids or proposals that appear abnormally low ¹

Better Practices:

- All user agencies shall prepare an independent cost estimate for each project. The purchasing agent shall utilize the independent cost estimates for the evaluation of cost proposals and to assist the department of purchasing and contract compliance and evaluation committee in determining if proposals/bids are reasonably priced ^{2,4}
- Through market analysis, a more reliable cost estimate for the goods and services can be developed. Pricing may be available through Internet research or suppliers may be willing to offer preliminary price quotes ³
- Other methods of estimating cost may include reviewing the price of recently awarded contracts for similar purchases or reviewing pricing on any applicable convenience statewide contracts ³
- Estimating the expected cost of the needed goods or services is necessary for at least two reasons:

1. **“Principles and Practices of Public Procurement-The Evaluation Process” NIGP**

<http://engage.nigp.org/acton/attachment/24793/f-01cb/1/-/-/-/TheEvaluationProcess.pdf>
2. **Section 102-367, paragraph b 1 and c of Fulton County Procurement Ordinances**
3. **Section 2.2.3.4 of GPM**
4. **Section 12 of the Douglas County Board of Commissioners Purchasing Department Procurement Guide**

- The benefit of including this is to emphasize to contracting officers/user departments the importance of including a well-supported cost estimate that help determine the:
 - ✓ Amounts to be budgeted / funding availability
 - ✓ Type of purchasing method to use (Request for proposals, Invitation to Bid, Informal Purchases, etc.)
 - ✓ Reasonableness of the proposal or bid, especially in sole source contracts

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<ul style="list-style-type: none"> ✓ Preliminary cost estimates will assist stakeholders in determining whether the needed goods or services are likely to be obtained within the entity’s budget or if an alternative procurement strategy will be necessary ✓ Estimating the expected cost of the needed goods or services is required to determine whether the entity possesses sufficient delegated purchasing authority to conduct the type of competitive solicitation ³ 		
<p>Liquidated Damages/Incentives</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> • The NIGP prescribes that contracts should include, when appropriate, positive and negative incentives to induce better quality performance and reduce costs to government. Incentives: <ul style="list-style-type: none"> ✓ Should be used when they will induce better quality performance ✓ May be positive or negative, monetary or non-monetary, or a combination of both ✓ Should apply to the most important aspects of the work, rather than every individual task ✓ May vary depending on desired outcome and type of contract ¹ 	<ol style="list-style-type: none"> 1. Principles and Practices of Public Procurement- “Performance Based Contracting” NIGP http://engage.nigp.org/acton/attachment/24793/f-01ce/1/-/-/-/Performance%20based%20contracting.pdf 2. <i>O.C.G.A. Title 13, Chapter 10, Article 70</i> 3. <i>O.C.G.A. Title 36, Chapter 91, Article 24</i> 4. Section 11.501 of FAR 5. Section 16.402-3 of FAR 	<ul style="list-style-type: none"> • Inclusion of the Liquidated Damages clause along with the estimated damages provides: <ul style="list-style-type: none"> ✓ Both the contractor and government the knowledge that the local government will be reimbursed for contractor performance that leads to damages or additional cost to the government ✓ Contractors with greater incentives to finish construction projects quicker, which will improve stakeholders’ satisfaction

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<ul style="list-style-type: none"> • O.C.G.A. Title 13, Chapter 10, Article 70 and O.C.G.A. Title 36, Chapter 91, Article 24 cite that public works construction contracts may include both liquidated damages provisions for late construction project completion and incentive provisions for early construction project completion. The terms of the liquidated damages provisions and the incentive provisions shall be established in advance as a part of the construction contract and included within the terms of the bid or proposal ^{2,3} <p><u>Better Practices:</u></p> <ul style="list-style-type: none"> • Liquidated damages rate must be a reasonable forecast for damages caused by late delivery or untimely performance of the particular contract ⁴ • Delivery incentives should be considered when improvement from a required delivery schedule is a significant Government objective. Incentive arrangements on delivery should specify the application of the reward-penalty structure in the event of Government-caused delays or other delays beyond the control, and without the fault or negligence, of the contractor ⁵ • Use a maximum amount or a maximum period for assessing liquidated damages if these limits reflect the maximum probable damage to the Government ⁴ • Public works construction contracts may include both liquidated damages provisions for late 	<p>6. Article V, Section 102-419 of <i>Fulton County Code of Ordinances</i></p>	<p>and possibly reduce contract costs</p>
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**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<p>construction project completion and incentive provisions for early construction project completion ^{2,3}</p> <ul style="list-style-type: none"> The purchasing agent shall issue a clause for liquidated damages to define the rights and responsibilities of the parties to the contract ⁶ 		
<p>Prompt Payments</p> <p><u>Criteria:</u></p> <p><u>Prompt payment discounts</u></p> <ul style="list-style-type: none"> NIGP guidelines state that when evaluating for lowest price, the evaluation panel should examine the submitted documentation to ensure that discounts are applied to the process ² <p><u>Payment terms</u></p> <ul style="list-style-type: none"> O.C. G. A. Title 13, Chapter 11, Article 7 states that: <ul style="list-style-type: none"> ✓ If payment to the prime contractor is delayed by more than 15 days and if the payments to the subcontractor is delayed by more than 10 days, then the government shall pay the prime contractor and the prime contractor shall pay the sub- contractor interest at a rate of one 	<ol style="list-style-type: none"> O.C.G.A. Title 13, Chapter 11, Article 7 “Principles and Practices of Public Procurement-The Evaluation Process” NIGP http://engage.nigp.org/acton/attachment/24793/f-01cb/1/-/-/-/TheEvaluationProcess.pdf Sections 32.903 and 32.904 of FAR Section 7.5.2 of GPM Section X, Paragraph B(3) of Douglas County Board of Commissioners Purchasing Department Procurement Guide 49 CFR 26.29 	<ul style="list-style-type: none"> Requiring the definition of payment terms and penalties in contracts allows the County greater flexibility in establishing more cost effective payment terms for the County

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<p>percent a month beginning on the date after the due date</p> <p>✓ Purchaser and vendor are allowed to define their own payment terms and penalty for late payment within the contract that supersedes the Code, payment terms and penalties ¹</p> <p><u>Better Practices:</u></p> <p><u>Bid evaluation - Prompt payment discounts</u></p> <ul style="list-style-type: none">• Agency heads must establish the policies and procedures necessary to implement prompt payment discount procedures ³• When drafting solicitations, contracting officers should define any applicable prompt payment discounts within the solicitation documents. This includes the percentage of the proposed discount required from contractor if payment is made within a specified period by the agency (e.g. 5% discount for payments made within 10 days of receiving invoice) ³• When evaluating for lowest price, the evaluation panel should examine the submitted documentation to ensure that discounts are applied ²		
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**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<p><u>Payment terms</u></p> <ul style="list-style-type: none"> • Require that payment terms be negotiated and stated in the contract / statement of work ^{1,4} • Agency procedures must ensure that, when specifying payment due dates, contracting officers give full consideration to time reasonably required by Government officials to fulfill their administrative responsibilities under the contract ³ • Must have a contract clause that requires primes to pay subcontractors for satisfactory performance of their contract work no later than 30 days from receipt of payment for such work from the grantee ^{5,6} • Specify withholding payments to contractors who fail to meet timeframes ^{5,6} 		
<p>Lease vs Purchase Analysis</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> • The NIGP emphasizes that the procurement personnel should conduct proper analysis when making lease vs. purchase decisions. The NIGP suggests factors to consider include the purchase price, annual maintenance cost, estimated time period, value at end of contract period, and the annual lease cost. It also provides conditions in which leasing, lease-to-purchase, and purchasing are the most advantageous ¹ 	<ol style="list-style-type: none"> 1. “Principles and Practices of Public Procurement-Lease vs Purchase Decision” <i>NIGP</i> http://engage.nigp.org/acton/attachment/24793/f-01cc/1/-/-/-/Lease%20Purchase%20Decision.pdf 2. Section XIII, Paragraph B(3) of <i>Douglas County Board of</i> 	<ul style="list-style-type: none"> • Adding this to the County’s Purchasing Policy would require procurement officials to perform and document analysis to support purchase or lease decisions and potentially reduce contract costs

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

Better Practices:

- In certain situations, equipment requirements may be more economically filled by rental or lease than by purchase. The decision to rent rather than purchase must be made on a case-by-case basis, and should only be used when it is in the county's best interest ^{2,3,4}
- A lease may qualify for capital assistance if it meets the following criteria:
 - ✓ The capital asset to be acquired is eligible for capital assistance
 - ✓ Leasing the capital asset is more cost-effective than purchase or construction of asset ²
- The following factors must be considered before leasing equipment:
 - ✓ Estimated and actual timeframe equipment usage is required
 - ✓ Financial and operating advantages of alternative types of equipment
 - ✓ Total rental/lease cost for the estimated period of use
 - ✓ Net purchase price, if acquired by purchase
 - ✓ Transportation and installation costs

*Commissioners Purchasing
Department Procurement Guide*

3. **Section 7.401** of *FAR*

4. **Section 200.03** of *Fayette
County Policies and Procedures*

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<ul style="list-style-type: none"> ✓ Maintenance and other service costs ✓ Trade-in or salvage value ^{1,2,3} • The cost-benefit analysis will help to identify and quantify the available contracting options. Purchasing may be the preferred option if the: <ul style="list-style-type: none"> ✓ Equipment is to be used for longer than three years ✓ Agency does not have staff and systems to track assets and manage the lease with each supplier ✓ Funding is uncertain so that the full term of the lease cannot be met ¹ • Lease-purchasing may be the preferred option if the: <ul style="list-style-type: none"> ✓ Monetary value of the equipment is substantial and its useful life is longer than three years ✓ Flexibility of spreading out payments would be beneficial ¹ • Leasing may be the preferred option if: <ul style="list-style-type: none"> ✓ Replacement according to industry life cycles is needed ✓ There is a business need for rapid technological change 		
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**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<ul style="list-style-type: none"> ✓ Agencies are undergoing downsizing or reorganizing ✓ There is a business need for quick adoption of new technologies ✓ The flexibility of spreading out payments and using operating funds (rather than capital funds) would be beneficial ¹ 		
<p>Contract Types</p> <p>Criteria:</p> <ul style="list-style-type: none"> • The NIGP states that a procurement manual should provide guidance in regard to the appropriate type of contract to use ¹ <p>Better Practices:</p> <ul style="list-style-type: none"> • Contract types vary according to the degree and timing of the responsibility assumed by the contractor for costs of performance and amount and nature of the profit incentive offered to the contractor for achieving or exceeding specified standards or goals ² • Contracts resulting from sealed bidding shall be firm fixed-price contracts or fixed-price contracts with economic price adjustment ² 	<ol style="list-style-type: none"> 1. “Principles and Practices of Public Procurement- Developing a Procurement Policy Manual” NIGP http://engage.nigp.org/acton/attachment/24793/f-00d3/1/-/-/-/DEVELOPING%20PROCUREMENT%20MANUAL%20UPDATED.pdf 2. Sections 16.101, 16.102, and 16.103 of FAR 3. Section XI of Douglas County Board of Commissioner Purchasing Department Procurement Guide 	<ul style="list-style-type: none"> • Utilizing the proper contract type allows the procurement official the flexibility in acquiring services at lowest cost and can provide an incentive for efficient and economical performance of services

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<ul style="list-style-type: none">• Selecting the contract type is generally a matter for negotiation and requires the exercise of sound judgment. Negotiating the contract type and negotiating prices are closely related and should be considered together ² • The objective is to negotiate a contract type and price (or estimated cost and fee) that will result in reasonable contractor risk and provide the contractor with the greatest incentive for efficient and economical performance ² • A firm-fixed-price contract, which best utilizes the basic profit motive of business enterprise, shall be used when the risk involved is minimal or can be predicted with an acceptable degree of certainty. However, when a reasonable basis for firm pricing does not exist, other contract types should be considered, and negotiations should be directed toward selecting a contract type that will appropriately tie profit to contractor performance in particular ² • Each contract file shall include documentation to show why the particular contract type was selected. This shall be documented in the acquisition plan, or in the contract file if a written acquisition plan is not required by agency procedures ² • A time and materials type contract will only be used:	<p>4. Part 3, Section 4 of the <i>Chatham County Purchasing Ordinance</i></p>	
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**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<ul style="list-style-type: none"> ✓ After a determination that no other type contract is suitable ✓ If the contract specifies a ceiling price the contractor can exceed only at own risk ³ • The use of a cost-plus-a-percentage-of-cost contract is not allowed except with extenuating circumstances and approval of the Purchasing Director ⁴ • A cost-reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to the county than any other type or that it is impracticable to obtain the supplies, services, or construction required except under such a contract ⁴ 		
<p>Spend Analysis</p> <p><u>Criteria:</u></p> <p>The NIGP states:</p> <ul style="list-style-type: none"> • Procurement organizations should use spend analysis to leverage buying power, reduce costs, provide better management and oversight of suppliers, and to develop an informed procurement strategy • Spend analysis is the process of collecting, cleansing, classifying and analyzing expenditure 	<ol style="list-style-type: none"> 1. “Principles and Practices of Public Procurement-Spend Analysis” NIGP http://engage.nigp.org/acton/attachment/24793/f-01d5/1/-/-/-/-/so spend-analysis.pdf 2. Section 2.2 of GPM 	<ul style="list-style-type: none"> • Requiring periodic spend analysis will better enable contracting officers to become aware opportunities to: <ul style="list-style-type: none"> ✓ Reduce supply and service costs ✓ Eliminate duplicate suppliers ✓ Improve contract compliance

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<p>data from all sources within the organization (i.e. purchasing card, eProcurement systems, etc.)</p> <ul style="list-style-type: none"> • The process analyzes the current, past and forecasted expenditures to allow visibility of data by supplier, by commodity or service, and by department within the organization • Spend analysis can be used to support future management decisions by providing answers to such questions as: what was bought; when was it bought; where was it purchased; how many suppliers were used and how much was spent with each and how much was paid for the item ¹ <p><u>Better Practices:</u></p> <ul style="list-style-type: none"> • Analyze historical purchases or usage by all local government entities. Reviewing historical purchases or usage will assist the procurement professional in identifying stakeholders. The procurement professional may also ask the individuals making the purchasing request to identify any similar program areas or similar need for the requested goods or services ² • Spend analysis should include the identification, automated collection, cleansing, grouping, categorization, and analysis of all spend data for the goods and services purchased for the organization ¹ • Procurement should work to identify all spend data, internal and external, for the organization. 		<p>✓ Use contract pricing to create savings</p>
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**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<p>Once spend data sources are identified, the data should be collected and automated ¹</p> <ul style="list-style-type: none"> Once data is collected, it should be cleansed to remove any duplicates or errors, grouped, and categorized to ensure accurate organization and correlation of spend data and to enable actionable analyses ¹ Regular analysis of collected spend data is necessary to support management decisions for the organization, and better oversight of supplier relationships ¹ 		
<p>Property Accountability</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> The NIGP states that a procurement manual should provide guidance on special procurement programs such as Material Management which would include government property ¹ <p><u>Better Practices:</u></p> <ul style="list-style-type: none"> Generally, contractors are ordinarily required to furnish all property necessary to perform Government contracts. Contracting officers shall provide property to contractors only when it is clearly demonstrated to be in the Government's best interest or the overall benefit to the acquisition significantly outweighs the increased 	<ol style="list-style-type: none"> “Principles and Practices of Public Procurement- Developing a Procurement Policy Manual” NIGP http://engage.nigp.org/acton/attachment/24793/f-00d3/1/-/-/-/DEVELOPING%20PROCUREMENT%20MANUAL%20UPDATED.pdf Sections 45.102 and 45.105 of FAR Section 7.4.6 of GPM 	<ul style="list-style-type: none"> Incorporating this into a procurement policy would ensure that County owned equipment is properly accounted for and better safeguard the County's assets, reduce liabilities, and reduce the potential of fraud

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<p>cost of administration, including ultimate property disposal ²</p> <ul style="list-style-type: none">• All equipment items purchased, furnished, charged to or paid for by the government will remain the property of the agency. The contractor must hold such property for the benefit of the agency and upon the agency written request, or at the time of contract termination, deliver the property to the agency ³• Agencies shall specify government furnished property provided to contractors in the statement of work ⁴• The user activity responsible for contract administration shall ensure that the contractor properly accounts for government furnished property ²	<p>4. Chapter 3, par. 3 of Office of Federal Procurement Policy – Pamphlet Number 4.</p>	
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Appendix IV- Criteria/Better Practices/Sources/Benefits Identified for Areas Needing Improvement to Procurement Policy

**Superscript number(s) in the first column indicate the related reference(s) for the criteria/better practice.*

Criteria /Better Practices identified	References /Sources	Benefits of Revising Policy
<p>Authorities, Roles and Responsibilities</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> The NIGP specifies that a procurement manual should establish guidance for the procurement organization that defines authorities, roles, appointments, and responsibilities of the central procurement office that includes reporting and oversight requirements ¹ <p><u>County Purchasing Policy:</u></p> <ul style="list-style-type: none"> The County’s Purchasing Policy did address some of the general responsibilities and authorities of the Chief Procurement Officer of Purchasing and Contracting and the Purchasing Advisory Committee <p><u>Better Practices:</u></p> <ul style="list-style-type: none"> Detail the authorities, roles and responsibilities of the CPO ^{2,3} Outline the appointment and qualifications of the CPO ^{2,3} 	<ol style="list-style-type: none"> “Principles and Practices of Public Procurement- Developing a Procurement Policy Manual” NIGP http://engage.nigp.org/acton/attachment/24793/f-00d3/1/-/-/-/DEVELOPING%20PROCUREMENT%20MANUAL%20UPDATED.pdf Sections 1.602 and 1.604 of FAR Article V, Sections 102-363, 102-364, 102-365, 102-366, and 103-367 of Fulton County Code of Ordinances 	<ul style="list-style-type: none"> Clearly defining roles, responsibilities, and authorities for all organizations involved in the procurement process will: <ul style="list-style-type: none"> ✓ Enhance accountability for all organizations ✓ Codify assigned roles and responsibilities throughout the County ✓ Clearly identify the award and administration responsibilities

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<ul style="list-style-type: none"> Define the roles and responsibilities of ALL stakeholders involved in the procurement process: contracting officers, contract inspectors, and user activities involved with contracts ^{2,3} 		
<p>Multi-Year Contracting</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> O.C.G.A. Title 36, Chapter 60, Article 13 states that each county in Georgia is authorized to enter into a multi-year lease, purchase, or lease purchase contract of all kinds of contracts ¹ The code also mandates that for option year contracts, the counties specify the amount to be obligated, termination provisions due to unavailability of funds, and requirements to terminate contracts at the close of the fiscal or calendar year in which the contract was executed and at the close of each calendar and fiscal year in which it is renewed ¹ <p><u>County Purchasing Policy:</u></p> <ul style="list-style-type: none"> The County's Purchasing policy did address renewals and extensions along with the requirement that the user activity must certify in writing to the Department of Purchasing and Contracting that the contractor performed satisfactorily. It also required approval by the Governing Authority for renewals where the total price of the contract (including the renewal amount) exceeds \$100,000. In addition, the policy defined multi-year contracts and stated 	<ol style="list-style-type: none"> <i>O.C.G.A. Title 36, Chapter 60, Article 13</i> Section 17.104 of <i>FAR</i> Section 2-5-4.01 of <i>Cherokee County Procurement Ordinance</i> Section 3.6.2 of <i>GPM</i> 	<ul style="list-style-type: none"> Adding this to the policy would enhance the contracting officers' knowledge on when to implement multi-year contracting that would provide for: <ul style="list-style-type: none"> ✓ Lower costs ✓ Enhancement of standardization ✓ Reduction of administrative burden in the placement and administration of contracts ✓ Substantial continuity of production or performance, thus avoiding annual startup costs, preproduction testing costs, make-ready expenses, and phase-out costs ✓ Stabilization of contractor work forces ✓ Avoidance of the need for establishing quality control

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<p>they were permitted by O.C.G.A. Title 36, Chapter 60, Article 13</p> <ul style="list-style-type: none"> • However, the County policy needs to be strengthened to help guide when to utilize option or multi-year contracts, time limits (if applicable) for option year contracts, and requirements for exercising option years for the procurement and user activity organization <p><u>Better Practices:</u></p> <ul style="list-style-type: none"> • Counties should specify the amount to be obligated, termination provisions due to unavailability of funds, and requirements to terminate contracts at the close of the fiscal or calendar year of contract execution and at the close of each calendar and fiscal year in which it is renewed ¹ • Multi-year contracting is a special contracting method to acquire known requirements in quantities and total cost for up to 5 years unless otherwise authorized by statute ² • Prior to the utilization of a multi-term contract, the Purchasing Agent shall determine in writing that the contract: <ul style="list-style-type: none"> ✓ Requirements cover the period of the contract and are reasonably firm and continuing ✓ Will serve the best interests of the County by encouraging effective competition or otherwise promoting economies in County procurement ³ 		<p>techniques and procedures for a new contractor each year</p> <ul style="list-style-type: none"> ✓ Consistency in application of multi-year contracting methods for similar services
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**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<ul style="list-style-type: none"> When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent calendar/fiscal period, the contract shall be cancelled ^{1,3,4} 		
<p>Performance Based Specifications / Statement of Work</p> <p>Criteria:</p> <ul style="list-style-type: none"> The NIGP specifies that a procurement manual should provide guidance regarding specifications which the County policy does ¹ The NIGP also states that procurement organizations should seek to improve performance and lower costs with performance based contracts/statement of work. Performance based contracts should: <ul style="list-style-type: none"> ✓ Describe the requirements in terms of results required rather than specifying how the work is to be accomplished ✓ Set measurable performance standards ✓ Describe how the contractor's performance will be evaluated in a quality assurance plan, and ✓ Identify and use positive and negative incentives. It also states that performance work statements 	<ol style="list-style-type: none"> Principles and Practices of Public Procurement- "Performance Based Contracting" - NIGP http://engage.nigp.org/acton/attachment/24793/f-01ce/1/-/-/-/Performance%20based%20contracting.pdf Sections 37.602 and 37.603 of FAR Section 3.5.5.1.1 of GPM Office of Federal Procurement Policy, Para 1.3 Pamphlet Number 4, Supplement No. 2 to OMB Circular No. A-76 	<ul style="list-style-type: none"> The benefit of adding specific criteria pertaining to performance based specifications and statement of work to the purchasing policy is that it will: <ul style="list-style-type: none"> ✓ Enable the assessment of contractor's performance against measurable standards ✓ Improve the government's ability to determine performance incentives ✓ Encourage and reward contractors to initiate more productive methodologies

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<p>✓ Be structured in contracts around the outcomes and timelines rather than how to perform it. The work statement should contain performance standards which are outcome-based and measurable ¹</p> <p><u>County Purchasing Policy:</u></p> <ul style="list-style-type: none">• The County Purchasing Policy did address the development of specifications to maximize competition, prohibition of restrictive specifications and appropriate specification types such as brand name or equal <p><u>Better Practices:</u></p> <ul style="list-style-type: none">• Procurement organizations should seek to improve performance and lower costs through the use of performance based contracts that:<ul style="list-style-type: none">✓ Describe the requirements in terms of results required rather than specifying how the work is to be accomplished✓ Set measurable performance standards✓ Identify and use positive and negative incentives that correspond to the performance standards set forth in the contract ^{1,2,4}• Entities shall, to the maximum extent practicable:<ul style="list-style-type: none">✓ Assess work performance against measurable performance standards		
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**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<ul style="list-style-type: none"> ✓ Rely on the use of measurable performance standards and financial incentives in a competitive environment to encourage competitors to develop and institute innovative and cost-effective methods of performing work ² • Performance standards establish the performance level required by the Government to meet the contract requirements. The standards shall be measurable and structured to permit an assessment of the contractor’s performance ^{1,2,3,4} 		
<p>Responsive and Responsible Bids and Proposals</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> • The NIGP prescribes guidance for the selection criteria by which the resulting bids or proposals will be evaluated. One portion of the criteria is the determination of responsiveness and responsible bids and proposals ¹ • O.C.G.A. Title 36 Chapter 91 Article 23 specifies that for Invitation to Bids and Request for Proposals, no responsible bidder shall be disqualified or denied prequalification based upon a lack of previous experience with a job of the size for which the bid or proposal is being sought if the: 	<ol style="list-style-type: none"> 1. Principles and Practices of Public Procurement- “Developing Evaluation Criteria” NIGP http://engage.nigp.org/acton/attachment/24793/f-01c9/1/-/-/-/DevelopingEvaluationCriteria.pdf 2. <i>O.C.G.A. Title 36 Chapter 91 Article 23</i> 3. Sections 5.6.2.1 and 5.6.2.2 of GPM 4. Section 9.104-1 of FAR 	<ul style="list-style-type: none"> • The benefit of amending this section will help to ensure that contracting officers and vendors have a clear understanding of specifically the criteria for determining bidders and proposers responsive and responsible

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<ul style="list-style-type: none">✓ Bid or proposal is not more than 30 percent greater in scope or cost from the responsible bidder's previous experience in jobs✓ Responsible bidder has experience in performing the work for which bids or proposals are sought✓ Responsible bidder is capable of being bonded by a surety which meets the qualifications of the bid documents for a bid bond, a performance bond, and a payment bond as required for the scope of the work for which the bid or proposal is being sought ² <p><u>County Purchasing Policy:</u></p> <ul style="list-style-type: none">• The County policy does address responsive and responsible bids and proposals and provides examples of disqualifications for bids or proposal such as:<ul style="list-style-type: none">✓ Submitted without required bonds✓ Incomplete in material and fact✓ By entities on the Ineligible Source List✓ Violating ethics rules• However, the County policy needs revision to detail the specific criteria pertaining to responsiveness and responsibility		
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**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

Better Practices:

- Responsive means the bidder or proposer has submitted a timely offer, which materially conforms to the requirements and specifications of the solicitation. The response must be considered responsive to be eligible for status as a qualified contractor ³

- Responsible means the company has appropriate legal authority to do business in the state of Georgia, a satisfactory record of integrity, appropriate financial, organizational and operational capacity and controls, and acceptable performance on previous governmental and/or private contracts ³

- Provide examples of non-responsible. Examples of non-responsibility include:
 - ✓ History of non-performance or performance problems on other contracts

 - ✓ Record of financial difficulty or business instability

 - ✓ Criminal or civil sanctions and/or tax delinquency. A supplier's unreasonable failure to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility ^{1,4}

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<ul style="list-style-type: none"> The issuing officer on a case-by-case basis taking into consideration the unique circumstances of the individual procurement will determine non-responsibility. A non-responsibility determination must be put in writing and maintained as part of the procurement file ³ 		
<p>Emergency Contracting</p> <p>Criteria:</p> <ul style="list-style-type: none"> O.C.G.A. Title 36, Chapter 69, Article 2 defines the conditions for an emergency. Local emergency means the existence of conditions of extreme peril to the safety of persons and property within the territorial limits of a political subdivision of the state caused by natural disasters, riots, civil disturbances or other situations present in major law enforcement and other public safety problems ² The NIGP states that emergency contracting procedures be addressed as a key topic under the source selection process ¹ <p>County Purchasing Policy:</p> <ul style="list-style-type: none"> The policy states that 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 policy also states that competitive processes should be followed as circumstances reasonably permit. It also requires documentation from the user 	<ol style="list-style-type: none"> “Principles and Practices of Public Procurement- Developing a Procurement Policy Manual” NIGP http://engage.nigp.org/acton/attachment/24793/f-00d3/1/-/-/-/DEVELOPING%20PROCUREMENT%20MANUAL%20UPDATED.pdf <i>O.C.G.A. Title 36, Chapter 69, Article 2</i> Source: Section 200.01, Procedure I of Fayette County Policies and Procedures Page 9 of Rockdale County Purchasing and Procurement Policy Number 2010-1-8 	<ul style="list-style-type: none"> Revising the policy will specify when user activities can properly classify circumstances as emergencies, which would potentially increase competition, lower prices, and assist the county in meeting LSBE goals

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<p>department to be submitted to the Department of Purchasing and Contracting. In addition, emergency purchases of \$100,000 or greater must be ratified by the Governing Authority</p> <ul style="list-style-type: none">• However, the criteria for emergency contracts needs strengthening to specify what constitutes an emergency <p><u>Better Practices:</u></p> <ul style="list-style-type: none">• Conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision of the state and which require the combined forces of other political subdivisions to combat ²• A state of emergency may be declared by the Governor, or determined to exist by the county governing authority. During times of declared emergency, procedures for emergency procurement will be in effect, as authorized in the Policy and Procedures Manual or other official documents ³• An emergency may be caused by an unexpected and urgent situation, but which does not rise to the level of a declared state of emergency. For procurement purposes, this level of emergency is described as an unexpected situation, which requires rapid response outside of established purchasing procedures. It may involve danger to health, life or property. It may involve an unexpected delay in delivery, depleted inventory, or		
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**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<p>an unusually high volume of work, depending on the situation ³</p> <ul style="list-style-type: none"> Care must be taken that adequate planning is done so that these situations do not occur when avoidable ⁴ 		
<p>Sole Source Contracts</p> <p><u>Criteria:</u></p> <p>The NIGP prescribes that a procurement policy manual include guidance for sole-source procurement. ¹</p> <p><u>County Purchasing Policy:</u></p> <ul style="list-style-type: none"> The purchasing policy did address sole-source purchasing and requires that sole source contracts be utilized when: <ul style="list-style-type: none"> ✓ Only one supplier is able to fill requirements for the intended use ✓ Standardization exists from past performance ✓ Written justification is signed by the Department Director and submitted to Purchasing and Contracting for evaluation The guidance needs to be revised to potentially enhance competition 	<ol style="list-style-type: none"> “Principles and Practices of Public Procurement- Developing a Procurement Policy Manual” NIGP http://engage.nigp.org/acton/attachment/24793/f-00d3/1/-/-/-/DEVELOPING%20PROCUREMENT%20MANUAL%20UPDATED.pdf Section 2.3.2.2 of GPM Article V, Section 102-384 (c) of Fulton County Code of Ordinances Section 12 of the Douglas County Board of Commissioners Purchasing Department Procurement Guide Section 6-303-2(b) of FAR 	<ul style="list-style-type: none"> The benefit of adding this criteria and practice would be to potentially enhance competition, reduce prices for the services desired, and reduce sole-source contracts in future

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

Better Practices:

- To determine the appropriateness of a sole-source purchase, research must be conducted to determine if other goods or service providers exist and can satisfy procurement requirements ²

- The procurement professional must provide public notice of the intended sole-source purchase through a posting to the GPR for a minimum of five (5) business days. The purpose of publicizing the sole-source notice is to offer other possible suppliers an opportunity to respond by submitting a protest stating they can provide the specified good or service ²

- All intended sole source acquisitions shall be advertised on the county's bid board/internet for a minimum of five business days ³

- Sole source justifications shall include a description of the supplies and services to include a cost estimate or price or cost analysis ⁵

- It is critical that contracts in which no price competition exists (e.g sole source contracts) include an independent cost estimate to determine the reasonableness of the bid ⁴

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

Temporary Services Contracts

Criteria:

- The NIGP states that a procurement manual should provide guidance for the use of special public procurement programs since temporary contracts is a special procurement program ¹

County Purchasing Policy:

- The County’s Purchasing Policy includes guidance for use of professional services along with the award procedures from the user activity and procurement office. Professional services can include temporary help services
- The policy needs to be amended to reflect the conditions, rules, and limitations for temporary help services contracts

Better Practices:

- An agency may enter into a contract with a temporary firm for the brief or intermittent use of the skills of private sector temporaries, when the following exists:
 - ✓ An employee is absent for a temporary period because of a personal need including emergency, accident, illness, parental or family responsibilities, or mandatory jury service

1. **“Principles and Practices of Public Procurement- Developing a Procurement Policy Manual” NIGP**

<http://engage.nigp.org/acton/attachment/24793/f-00d3/1/-/-/-/DEVELOPING%20PROCUREMENT%20MANUAL%20UPDATED.pdf>

2. *Title 5 Code of Federal Regulations (CFR), Section 300.503*
3. *Title 5 CFR, Section 300.504*

- Adding this to the County policy will assist the procurement official in determining appropriate times and usage of temporary service contracts and the limitations on their use

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<ul style="list-style-type: none">✓ An agency must carry out work for a temporary period, which cannot be delayed in the judgment of the agency because of a critical need. The need cannot be met with current employees or through the direct appointment of temporary employees ² • No employer-employee relationship is created by an agency's use of private sector temporaries under these regulations. Services furnished by temporary help firms shall be performed by their employees who shall not be considered or treated as county employees for any purpose, shall not be regarded as performing a personal service, and shall not be eligible for employee benefits ³ • To avoid any appearance of an employer-employee relationship, agencies shall observe the following time limit requirements:<ul style="list-style-type: none">✓ An agency may use a temporary help service firm(s) in a single situation initially for no more than 120 workdays. The agency may extend its use of temporary help services up to the maximum limit of 240 workdays ✓ An individual employee of any temporary help firm may work at a major organizational element of an agency for up to 120 workdays in a 24-month period. The 24-month period begins on the first day of assignment ✓ An agency may make an exception for an individual to work up to a maximum of 240		
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**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<p>workdays only when the agency has determined that using the services of the same individual for the same situation will prevent significant delay ³</p>		
<p>Bonds</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> O.C.G.A. Title 36, Chapter 91, Article 50 requires bid bonds for all public works construction contracts with estimated bids or proposals over \$100,000 and that governmental entities may require a bid bond for projects with estimated bids or proposals of \$100,000 or less ¹ O.C.G.A. Title 36, Chapter 91, Article 70 requires performance bonds for all public works construction contracts with an estimated contract amount greater than \$100,000. Governmental entities may require a performance bond for public works construction contracts that are estimated at \$100,000 or less ² <p><u>County Purchasing Policy:</u></p> <ul style="list-style-type: none"> The DeKalb County Purchasing Policy does require bid bonds and performance bonds. However, it does not specify a minimum dollar requirement of the contract to require bonding, but rather specifies when required <p><u>Better Practices:</u></p> <ul style="list-style-type: none"> Governmental entities: 	<ol style="list-style-type: none"> O.C.G.A. Title 36, Chapter 91, Article 50 O.C.G.A. Title 36, Chapter 91, Article 70 Part 5, Section III of <i>Chatham County Purchasing Ordinance</i> Article V, Section 102-412 of <i>Fulton County Code of Ordinances</i> 	<ul style="list-style-type: none"> Adding this to the policy increases the consistency of application of the requirement and helps mitigate risk for larger contracts

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<ul style="list-style-type: none"> ✓ Shall require bid bonds for all public works construction contracts with estimated bids or proposals over \$100,000 ✓ May require a bid bond for projects with estimated bids or proposals of \$100,000 or less ✓ Shall require performance bonds for all public works construction contracts with an estimated contract amount greater than \$100,000 ✓ May require a performance bond for public works construction contracts that are estimated at \$100,000 or less ^{1,2,3} 		
<p>Disposition of Real Property</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> • O.C.G.A. Title 36, Chapter 9, Article 3 cites the Georgia's counties requirements for disposal of real property. The code specifies requirements for award procedures (for both sealed bids and auctions) and publication notices of the property for disposal. It specifies that any county disposing of any real property shall: ✓ Make all such sales to the highest responsible bidder, either by sealed bids or by auction, after due notice has been given 	<ol style="list-style-type: none"> 1. “Principles and Practices of Public Procurement- Developing a Procurement Policy Manual” NIGP http://engage.nigp.org/acton/attachment/24793/f-00d3/1/-/-/-/DEVELOPING%20PROCUREMENT%20MANUAL%20UPDATED.pdf 2. <i>O.C.G.A. Title 36, Chapter 9, Article 3</i> 3. Part 8, Section 1, Paragraphs A and B of 	<ul style="list-style-type: none"> • Incorporating this into the policy will protect the county’s interest and assist in obtaining higher prices when disposing of real property

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<ul style="list-style-type: none"> ✓ Publicize not less than 15 days nor more than 60 days preceding the day of the auction or, if the sale is by sealed bids, preceding the last day for the receipt of proposals ✓ Retain all bids and keep available for public inspection for a period of not less than 60 days from the date on which such bids are opened ² • NIGP states that a procurement manual should provide guidance for the use of special public procurement program including surplus disposition. The DeKalb County Purchasing Policy did include provisions for the disposition of surplus personal property but could be improved by also including procedures for real property as well ¹ <p><u>County Purchasing Policy:</u></p> <ul style="list-style-type: none"> • The DeKalb County Purchasing Policy did include provisions for the disposition of surplus personal property. However, the policy needs to add provisions for the disposition of real property as well <p><u>Better Practices:</u></p> <ul style="list-style-type: none"> • The governing authority of the county disposing of any real property shall make all such sales to the highest responsible bidder and have the right to reject any and all bids or cancel any proposed sale ^{2,4} • The governing authority of the county shall cause notice to be published not less than 15 days nor more (if sale is by sealed bid) preceding the last day for the receipt of proposals ^{2,4} 	<p style="text-align: center;"><i>Chatham County Purchasing Ordinance</i></p> <p>4. Article V, Section 102-387 of <i>Fulton County code of Ordinances</i></p>	
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**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<ul style="list-style-type: none">• If the sale is by sealed bids, the notice shall also contain an invitation for proposals and shall state the conditions of the proposed sale, the address at which bid blanks and other written materials connected with the proposed sale may be obtained, and the date, time, and place for the opening of bids^{2,4}• Bids received in connection with a sale by sealed bidding shall be opened in public at the time and place stated in the legal notice^{2,4}• A tabulation of all bids received shall be available for public inspection following the opening of all bids and be retained and kept available for public inspection for a period of not less than 60 days after bid opening^{2,4}• Disposition of real property rules do not apply to redemption of property held by any county under a tax deed; the granting of easements and rights of way; the sale, conveyance, or transfer of road rights of way; the sale, transfer, or conveyance to any other body politic; and any sale, transfer, or conveyance to a nonprofit corporation in order to effectuate a lease-purchase transaction pursuant to O.C.G.A. Title 36, Chapter 60, Article 13^{2,3}		
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**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

Mistakes in Bids

Criteria:

- The NIGP also prescribes that contracting officials should examine the submitted documentation to ensure arithmetical errors are corrected and recorded, unless they are substantive to the bid ¹

County Purchasing Policy:

- The DeKalb County Purchasing Policy did include guidance outlining the mistake in bid process. It stated that any clerical mistake patently obvious on the face of a bid may be corrected upon written request and verification submitted by the bidder. While this is adequate, our review shows other guidance specifies that the contracting officer can check for mistakes in bids and notify the bidders of any detected potential mistake in bid

Better Practices:

- After opening of bids, the Purchasing Director will examine all bids for mistakes. In cases of apparent mistakes, and in cases where there is reason to believe that a mistake may have been made, he/she will request from the bidder a verification of the bid, calling attention to the suspected mistake ^{1, 2,3}
- Prior to award, the Purchasing Director may correct any clerical mistake apparent on the face of a bid, if

1. **“Principles and Practices of Public Procurement-The Evaluation Process” NIGP**

<http://engage.nigp.org/acton/attachment/24793/f-01cb/1/-/-/-/TheEvaluationProcess.pdf>

2. **Sections 14.407-1 of FAR**
3. **Section VI, Paragraph C 2(n) of Douglas County Board of Commissioners Purchasing Department Procurement Guide**
4. **Article V, Section 102-373, Paragraph (h)(1) of Fulton County Code of Ordinances**
5. **Sections 14.407-2 of FAR**

- Revising the policy to reflect this would place additional emphasis on contracting officers to thoroughly review bids and proposals for mistakes, which could potentially reduce contract prices

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<p>he/she has first obtained from the bidder, verification of the bid actually intended ^{4,5}</p> <ul style="list-style-type: none"> • Examples of such apparent mistakes are obvious: <ul style="list-style-type: none"> ✓ Error in placing decimal point ✓ Reversal of price f.o.b. destination and the price f.o.b. factory ✓ Error in destination of unit ✓ Correction will be reflected in the award document ² 		
<p>Vendor Performance Ratings</p> <p>Criteria:</p> <ul style="list-style-type: none"> • The NIGP states that past performance evaluations should be used to determine whether a bidder or offeror is qualified in the award process ¹ <p>County Purchasing Policy:</p> <ul style="list-style-type: none"> • The County Purchasing Policy states the CPO is authorized to establish a vendor performance rating system for use in eliminating those suppliers who fail to perform or who perform unsatisfactorily and that rating systems can be used may be used for evaluation and award purposes. However, the vendor performance rating system is currently not mandatory 	<ol style="list-style-type: none"> 1. “Principles and Practices of Public Procurement-Developing Evaluation Criteria” <i>NIGP</i> http://engage.nigp.org/acton/attachment/24793/f-01c9/1/-/-/-/DevelopingEvaluationCriteria.pdf 2. Article V, Section 102-416(f) of <i>Fulton County Code of Ordinances</i> 3. Sections 17.207(c), 42.1501(a) and 42.1502(b) of <i>FAR</i> 	<ul style="list-style-type: none"> • Amending the policy to require vendor ratings will benefit the contracting officer in determining whether a potential contractor is “responsible” and whether an existing contractor should be granted a renewal on an option year contract

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

Better Practices:

- The user agency shall monitor and review the performance of contractors/vendors that provide goods and services to the county. Regular performance appraisals shall be documented once every calendar quarter, or once every 60 days where the total contract period is six months or less. This shall not take the place of, but shall be in addition to the mandatory contract performance report required at the end of each contract ²
- The contract administrator is responsible for ensuring that the performance of contractors/vendors is recorded on the contractor performance report and submitted into the Department of Purchasing and Contracting centralized database ²
- The contracting officer may exercise options only after determining that the contractor's performance on this contract has been acceptable ³
- Past performance information (including the ratings and supporting narratives) is relevant information, for future source selection purposes, regarding a contractor's actions under previously awarded contracts ³
- Agencies shall prepare evaluations of contractor performance for each contract that exceeds the simplified acquisition threshold ³

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

Informal Purchases

Criteria:

- The NIGP cites that public entities should include source selection procedures such as small purchase orders (or informal purchases) in their procurement manual. The County utilizes a procurement method similar to this referred to as a “punch out list” in which user activities purchase items respectively from a list of vendors with catalogued items and prices ¹

County Purchasing Policy:

- The County policy did adequately address informal purchase procedures to include dollar thresholds, quotation and documentation by dollar thresholds, and prohibition of splitting informal purchases
- However, it needs to add provisions for the use of “punch out list” contracts

Better Practices:

- Define the “Punch out” catalogue contract process. (i.e. A method of filling out repetitive by establishing accounts with qualified vendors)
- Require that user activities ensure funding is available prior to purchasing

1. “Principles and Practices of Public Procurement- Developing a Procurement Policy Manual” *NIGP*

<http://engage.nigp.org/acton/attachment/24793/f-00d3/1/-/-/-/DEVELOPING%20PROCUREMENT%20MANUAL%20UPDATED.pdf>

2. **Section 13.303** of *FAR*

- The benefit of incorporating this procurement method is that user activities would gain insight as to when to utilize the “punch out list.

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**

<ul style="list-style-type: none">• Specify the commodity groups of supplies available for purchase for this contract • Require user activity organizations to identify their authorized buyers and approval authorities points of contact • Specify the required documentation (invoices, sales tickets, etc.) to accompany the purchases • Specify the organizations responsible for reviewing the purchases along with the frequency of review ²		
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OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY

PROJECT TEAM

This report submitted by:

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John Lipham
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Office of Independent Internal Audit

January 12, 2018

Date

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January 12, 2018

Date

STATEMENT OF ACCORDANCE

Statement of Accordance

The mission of DeKalb County is to make the priorities of the citizens of DeKalb County; the priorities of County government - by achieving a safer DeKalb, building stronger neighborhoods, creating a fiscally accountable and more efficient county government and uniting the citizens of DeKalb County.

The mission of the Office of Independent Internal Audit is to provide independent, objective, insightful, nonpartisan assessment of the stewardship or performance of policies, programs and operations in promoting efficiency, effectiveness and integrity in DeKalb County.

This performance audit was prepared pursuant to HB599, Georgia Statues., We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This report is intended for the use of the agency to which it was disseminated and may contain information that is exempt from disclosure under applicable law. Do not release without prior coordination with the Office of Independent Internal Audit.

Please address inquiries regarding this report to the Office of Independent Internal Audit at 404-371-2765.