

PART A - GENERAL CODE OF ORDINANCES
Title 3 - REVENUE AND FINANCE
CHAPTER 3.12. PROCUREMENT

CHAPTER 3.12. PROCUREMENT⁴

ARTICLE I. IN GENERAL

Commented [MW1]: REMOVED

Sec. 3.12.010. Title.

~~This chapter shall be known and may be referred to in proceedings as the County Procurement Ordinance.
This chapter shall be known as the County Purchasing Ordinance.~~

Sec. 3.12.020. Purpose.

The purpose of this chapter is to secure for the County taxpayers the advantages and economies which will result from centralized control over procurement of goods and services, supplies, materials, goods, furnishings, equipment and other personal property by the County.

~~This chapter is intended to comply with County Charter Section 601 which gives preference to vendors within the County of El Dorado for the purchase of goods, and Section 602 which requires a written contract for the performance of any services or function over \$10,000 and requires the identification of the county officer or employee with responsibility for administering the contract.~~

3.12.030 Purchasing Agent office established.

~~The Procurement and Contracts Division is established within the Chief Administrative Office. The Division shall be headed by the Chief Administrative Officer, or his or her designee, hereinafter referred to as "Purchasing Agent," and includes such other assistants as the Board may designate. The Purchasing Agent shall have the powers and duties prescribed for county purchasing agents by the provisions of California Government Code sections 25500 et. seq. the California Public Contracts Code, Federal and State law, the County Charter, and County ordinances, resolutions and policies.~~

Commented [MW2]: MOVED from Former Section 3.12.060

Sec. 3.12.030040. Procurement policies and procedures.

The Board of Supervisors shall adopt comprehensive policies and procedures governing purchases of goods and services, supplies and equipment. The Purchasing Agent shall draft policy which sets forth the rules and regulations to achieve the intent of this Chapter. Upon approval and adoption by the Board of Supervisors, the rules and regulations contained in the policy shall have the same force and effect as this Chapter. The Purchasing agent shall also develop procedures to implement this Chapter and the Board adopted Policy as he or she deems necessary. These policies and procedures shall be consistent with Federal and State law and with the County's Charter and ~~Ordinances, Policies and Resolutions and policies~~ of the Board of Supervisors.

⁴State law reference(s)—County purchasing of property, Government Code § 25480 et seq.; Local Agency Public Construction Act, Public Contracts Code § 20100 et seq.

Sec. 3.12.040. Purchases not subject to this chapter.

- A. ~~The purchase of space for advertising in newspapers or periodicals shall not be subject to the provisions of this chapter.~~
- B. ~~The purchase of election materials and services shall not be subject to the provisions of this chapter in accordance with Elections Code § 13001.~~
- C. ~~Purchases not subject to this chapter must conform to federal and state law and the County's Charter, and other applicable ordinances, resolutions and policies.~~

Commented [MW3]: Former Section 3.12.040 Purchases not subject to this chapter - REMOVED

Sec. 3.12.050. Definitions.

~~The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Competitive process* means a procurement process whereby the County solicits bids or proposals from multiple vendors for the provision of products or services.~~

~~*Department or department of the County* means any of the offices, departments, department heads, agency directors, or other organizational units of the County government and any special districts whose affairs and funds are under the supervision and control of the Board of Supervisors acting as its ex officio government body.~~

~~*Department head* means the officer in charge of the department. Where the department is a special district or has no one person in charge, the Board of Supervisors shall act by minute order as the department head for the purposes of this chapter, unless and until it appoints a person to act as department head for a specified purpose or for a specified time to carry out the provisions of this chapter.~~

~~*Emergency purchase* means a purchase which is immediately necessary for the preservation of life or property or for the continued operation of the office or department involved where undue delay would cause substantial loss to the County.~~

~~*Fixed asset* means any item of equipment belonging to one of the general classes of property considered a fixed asset in accordance with generally accepted accounting principles, or as defined by the County Auditor-Controller.~~

~~*Formal bid* means the competitive process in which the request for bid for product or services is circulated to all vendors on an established bidders' list for that commodity maintained by the Purchasing Agent, posted publicly, and received sealed and in writing by a stated deadline.~~

~~*Informal bid* means the competitive process in which the request for bid for product or services is solicited from a minimum of three vendors on an established bidders' list for that commodity maintained by the Purchasing Agent and is received by a stated deadline in writing, by fax, or by email.~~

~~*Request for proposal* means the competitive process in which vendors are requested to submit proposals when factors in addition to price may be considered, such as varying product specifications or methodology of service.~~

~~*Services* means work or services, inclusive of the services, advice, education, and training enumerated in Government Code § 31000, and exclusive of public works as defined in Public Contracts Code. For the purposes of this chapter, the term "services" shall not mean monthly usage agreements for refuse, wireless and other telephone services, cable and satellite television and internet services, or utility usage agreements.~~

~~*Supplies, materials, goods, furnishings, equipment and other personal property* means any and all items furnished to or used by any department, but excluding services, and excluding services or materials furnished "in kind" in lieu of a cash expenditure.~~

Commented [MW4]: Former Section 3.12.050 – Definitions - REMOVED

Surplus property means any item of personal property that is no longer needed by the office, department, agency or institution in possession thereof.

Sec. 3.12.060. Purchasing Agent—Office established.

The Procurement and Contracts Division is established within the Chief Administrative Office. The Division shall be headed by the Chief Administrative Officer or his or her designee, hereinafter referred to as "Purchasing Agent", and includes such other assistants as the Board may designate. The Purchasing Agent shall have the powers and duties prescribed for county purchasing agents in Federal and State law, the County Charter and County ordinances, resolutions and policies.

Commented [MW5]: Former Section 3.12.060 – Purchasing Agent – Office established – MOVED to section 3.12.030

Sec. 3.12.070. Same—Duties.

Except when otherwise provided by State and Federal law, the Purchasing Agent shall:

- A. Purchase, rent or lease for the County and its offices, all supplies, materials, goods, furnishings, equipment and other personal property of whatever kind and nature.
- B. Enter into facility rental agreements for meeting rooms, storage space, and parking spaces for the County and its offices.
- C. Engage independent contractors to perform services for the County and its offices pursuant to this chapter and award informally bid public works contracts pursuant to Chapter 3.14.
- D. Submit to the Board of Supervisors a report of procurement and contracting activity not less than annually.
- E. Sell or dispose of any personal property belonging to the County and found by the Board of Supervisors not to be required for public use.
- F. Accept trade-in allowances for personal property not further required for public use when purchasing additional personal property for public use.
- G. Perform such other services as the Board of Supervisors may require.
- H. Maintain records developed pursuant to this chapter.

Commented [MW6]: Former Section 3.12.070 – Same – Duties – REMOVED – language now in proposed Policy C-17, 1.1

3.12.050 Local vendor preference.

Pursuant to Section 601 of the El Dorado County Charter, a local preference credit for El Dorado County businesses shall be permitted when evaluating bids for goods unless otherwise prohibited by law.

For the purpose of this section, a local business qualifying for local vendor preference must meet all of the following criteria:

1. The local business shall have established a place of business within El Dorado County at least six months prior to the close of the bids.
2. If state sales tax is applicable to the purchase, the local business must possess a valid resale license from the State Franchise Tax Board evidencing the business' local address within El Dorado County.

Local businesses who wish to receive this preference shall be required to submit a statement which demonstrates compliance with the provisions of this section. The statement shall be in a format prescribed by the county procurement division and shall be signed under penalty of perjury. Any person, firm, corporation or entity intentionally submitting false information to the county in an attempt to qualify for local preference may be prohibited from bidding on El Dorado County products and services.

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Sec. 3.12.080060. Unauthorized purchases.

If any officer, employee, or agent of the County makes a purchase or contracts for services contrary to the provisions of this ~~chapter~~Chapter, such purchase or contract for services shall be void is voidable, and of no effect, and shall not constitute a lawful charge against County funds, unless ratified by the Board of Supervisors.

~~Sec. 3.12.090. Standards establishment.~~

~~The Purchasing Agent or his or her designee may organize and appoint standards committees as needed to establish standards with respect to the type, design, quality or brand of an item or group of related items or services to be purchased by the County. The membership of a standards committee shall be the Purchasing Agent, who shall serve as Chair, and the heads of any County offices, departments or institutions that are primary users of the item or group of items for which the committee is appointed. Any member of the committee may act through a representative designated by the member.~~

Commented [MW7]: Section 3.12.090 – Standards establishment – REMOVED (no comparable language in proposed Policy C-17)

Sec. 3.12.100070. Code of ethics for procurement.

- A. Employees participating in a procurement process shall uphold and adhere to all Federal, State, and local laws, ordinances and regulations and dedicate themselves to the highest ideals of honesty and integrity in that process. Employees shall discourage any inappropriate contact or encroachment on one's official duties by others who seek to influence a ~~decision, and~~decision and shall expose corruption whenever discovered.
- B. No employee participating in a procurement process shall:
 1. Accept any fee, compensation, gift, or payment of expenses which results in private gain in return for preferential treatment.
 2. Grant any special consideration, treatment, or advantage to any person beyond that which is available to every other person in similar circumstance.

~~Sec. 3.12.110. Purchases over budget prohibited.~~

~~Except as otherwise provided by State law, no purchase of supplies, materials, goods, furnishings, equipment, other personal property, or services shall be made by any department in excess of the department's appropriations for that class of expenditure in the County budget.~~

Commented [MW8]: Section 3.12.110 – Purchases over budget prohibited – REMOVED – comparable language now in proposed Policy C-17, 2.1

~~Sec. 3.12.120. Splitting purchase orders or contracts for services prohibited.~~

~~The splitting of, or separation into smaller purchase orders or contracts for the purchase of goods or services for the purpose of evading the requirements of this chapter is prohibited, and shall be cause for disciplinary action. (Code 1997, § 3.12.120; Ord. No. 4703, 9-12-2006; Ord. No. 4981, §§ 1, 2(3.12.120), 9-11-2012)~~

Commented [MW9]: Section 3.12.120 – Splitting purchase orders or contracts for services prohibited – REMOVED – comparable language appears in proposed Policy C-17, 2.2

~~ARTICLE II. PROCUREMENT AND DISPOSAL OF SUPPLIES, MATERIALS, GOODS, FURNISHINGS AND OTHER PERSONAL PROPERTY~~

Commented [MW10]: REMOVED

Sec. 3.12.130. Authority.

Except as otherwise provided in this chapter or by resolution of the Board of Supervisors, the Purchasing Agent:

- A. May purchase supplies, materials, goods, furnishings, equipment and other personal property of whatever kind and nature in amounts up to but not exceeding \$5,000.00 without a competitive process.
- B. Shall solicit and award informal bids for the purchase of all supplies, materials, goods, furnishings, equipment and other personal property of whatever kind and nature in amounts in excess of \$5,000.00 but not exceeding \$25,000.00 and may thereafter execute any necessary contracts or purchase orders.
- C. Shall solicit and award formal bids for the purchase of all supplies, materials, goods, furnishings, equipment and other personal property of whatever kind and nature in amounts in excess of \$25,000.00 but not exceeding \$100,000.00 and may thereafter execute any necessary contracts or purchase orders in amounts up to but not exceeding \$100,000.00.
- D. Shall solicit and submit to the Board of Supervisors for award formal bids for the purchase of all supplies, materials, goods, furnishings, equipment and other personal property of whatever kind and nature in amounts in excess of \$100,000.00. The Purchasing Agent may, after award by the Board of Supervisors, execute any necessary contracts or purchase orders.
- E. To the extent allowed by law, shall give preference to local vendors in the determination of the bid award.

Commented [MW11]: Section 3.12.130 – Authority – REMOVED – comparable language appears in proposed Policy C-17, 4.1

Sec. 3.12.140. Delegation of authority.

At the request of an agency or department head, the Purchasing Agent may, and where legally required to do so shall, delegate in writing purchasing and signature authorities to any County agency or department head or department personnel to purchase supplies, materials, goods, furnishings, equipment and other personal property that are related to the operations of the requesting agency or department. These purchases shall comply with this chapter and any County purchasing policies and procedures. Considerations for delegation of authority shall include, but not be limited to, the repetitive nature of purchases, volume, the purchasing experience of the department and other common factors lending themselves to delegation. The Purchasing Agent may also rescind the delegation of authority under this section by written notice to the County agency or department head, unless otherwise prohibited by law. Any agency or department head or department personnel so authorized under this section shall be considered and designated as an assistant or deputy Purchasing Agent until such authorization to purchase is rescinded.

Commented [MW12]: Section 3.12.140 – Delegation of Authority – REMOVED – comparable language appears in proposed Policy C-17, 4.2

Sec. 3.12.150. Purchases prohibited from delegation of authority.

Notwithstanding the provisions of Section 3.12.140, the following limitations on delegation of authority apply:

- A. Authority to purchase fixed assets, supplies available through central stores, and supplies, materials and equipment available for purchase pursuant to a contract awarded by the Board of Supervisors or the Purchasing Agent may not be delegated to any agency or department head or department personnel.
- B. Authority to purchase computer hardware and software may not be delegated to an agency or department head or department personnel of any department other than the Department of Information Technologies.

Commented [MW13]: Section 3.12.150 – Purchases prohibited from delegation of authority – REMOVED – comparable language appears in proposed Policy C-17, 4.2.1

C. Authority for emergency purchases may only be delegated to agency or department heads and may not be delegated to department personnel.

Sec. 3.12.160. Exemptions from competitive process.

Competitive bidding shall not be required for items exempt from competitive bidding pursuant to resolution adopted by the Board of Supervisors or when the Purchasing Agent (for purchases not exceeding \$100,000.00), or the Board of Supervisors makes written findings of fact that:

- A. Competitive bidding would not be in the public's interest because of an emergency as defined in this chapter;
- B. The unique nature of the property or services required precludes competitive bidding;
- C. Competitive bidding would produce no economic benefit to the County;
- D. All of the following requirements are met with respect to the item:
 - 1. The item may be procured from a vendor that has a contract with another public agency of this State, an alliance of this State and other states, or an alliance of local public agencies within the State for the purchase of the item;
 - 2. The contract was awarded utilizing a competitive bidding process substantially the same as that utilized by the County; and
 - 3. The item and terms of the transaction are the same, or substantially the same;
- E. Special circumstances exist such that the purchase must be made within a limited period of time in order to secure for the County an advantageous price for the item that would not be achievable through competitive bidding. Such purchases shall be reported to the Board of Supervisors at its next regularly scheduled meeting;
- F. It is in the best interest of the County to extend a contract award from the previous contract period for additional contract terms provided the contractor agrees to furnish such products or services at the same contract price and under the same terms and conditions as the prior contract. This finding shall be made only when one of the following conditions exists:
 - 1. The extension is necessary to avoid the interruption of County business; or
 - 2. The extension makes good business sense; or
- G. The products or services are needed by the County pending a bid award and the contractor with the most recently awarded contract for such product or services agrees to extend that contract for an interim period at the same contract price, terms, and conditions as the previous award. Such interim period contracts shall not exceed the greater of 90 days, or until the conclusion of a bidder's appeal, if applicable, of the pending bid process.

A comparative market analysis shall be included in the written findings of fact for purchases made pursuant to Subsections D and E of this section.

Sec. 3.12.170. Emergency purchases of supplies, materials, goods, furnishings and other personal property.

Emergency purchases, including those in excess of an individual's normal purchasing authority, may be made by the Purchasing Agent, or when the Purchasing Agent is not immediately available, by a department head. Emergency purchases made by a department head shall be reported to the Purchasing Agent as soon as possible, and no later than 30 days from the date of the emergency.

Commented [MW14]: Section 3.12.160 – Exemptions from competitive process – REMOVED – comparable language appears in proposed Policy C-17, 3.4

Commented [MW15]: Section 3.12.170 – REMOVED – comparable language appears in proposed Policy C-17, 2.9

Sec. 3.12.180. Stores account established.

The Board of Supervisors shall, on an annual basis, as part of the budget process, set the appropriation level necessary for the Purchasing Agent to make quantity purchases and maintain an inventory of supplies, materials and equipment for issue to the several offices and departments of the County as needed. As such supplies, materials and equipment are issued, the fund from which purchases were made shall be periodically reimbursed from the proper budget appropriations of the entity receiving such issues.

Commented [MW16]: Section 3.12.180 – Stores account established – REMOVED – no comparable language in proposed Policy C-17

Sec. 3.12.190. Surplus pool.

The Purchasing Agent shall provide secure storage for, and maintain an inventory of, surplus personal property. All items of surplus property shall remain available to County departments for a minimum of 15 business days prior to disposal or sale of same.

Commented [MW17]: Section 3.12.190 – Surplus pool – REMOVED – comparable language appears in proposed Policy C-17, 6.1

Sec. 3.12.200. Surplus property of no value.

- A. Items of surplus property, excluding fixed assets, shall be inspected by appropriate qualified staff for the purpose of determining operability and useful life. Those items found to be beyond economical repair or of little or no value shall, at the discretion of the Purchasing Agent, be disposed of in any manner the Purchasing Agent deems appropriate. Such determination of no value shall exempt items from placement in the surplus pool.
- B. Specific fixed assets found by the Purchasing Agent to be beyond economic repair or of little or no value and found by the Board of Supervisors not to be required or adequate for County use may be disposed of in any manner the Purchasing Agent deems appropriate.

Commented [MW18]: Section 3.12.200 – Surplus property of no value – REMOVED – comparable language appears in proposed Policy C-17, 6.2

Sec. 3.12.210. Surplus property sale.

The Purchasing Agent may sell any surplus property belonging to the County and found by the Board of Supervisors not to be required for public use. Such sales shall be conducted in accordance with Government Code 5-25504.

Commented [MW19]: Section 3.12.210 – Surplus property sale – REMOVED – comparable language appears in proposed Policy C-17, 6.3

Sec. 3.12.220. Surplus property availability to community organizations.

Upon the recommendation of the Purchasing Agent that specific items of property belonging to the County and found by the Board of Supervisors not to be required or adequate for County use, the Board of Supervisors may make available to community-based organizations engaged in the pursuit of public purposes those items of surplus personal property. The transfer of personal property to such organizations shall be made in accordance with Government Code 55-25365 and 25372, and pursuant to a written agreement.

Commented [MW20]: Section 3.12.220 – Surplus property availability to community organizations – REMOVED – no comparable language in proposed Policy C-17

ARTICLE III. PROCUREMENT OF SERVICES

Commented [MW21]: REMOVED

Sec. 3.12.230. Authority.

- A. Notwithstanding any other provision in this chapter, the Board of Supervisors may contract for services as authorized and provided in the Government Code without advertising for bids or seeking proposals thereon.

Commented [MW22]: Section 3.12.230 Authority – REMOVED – comparable language appears in proposed Policy C-17, 5.1

B. The Purchasing Agent may enter into contracts authorized by this section, provided the total contract amount, inclusive of all amendments, does not exceed \$50,000.00 or the amount allowed by Government Code § 25502.2, whichever is greater.

C. Unless otherwise prescribed by statute, nothing herein shall limit or restrict the Board of Supervisors or the Purchasing Agent from electing to call for and receive bids or proposals when awarding contracts under this section. Contracts for services shall meet all County requirements for contracts.

~~Sec. 3.12.240. Emergency purchases of services.~~

~~Emergency purchases of services, including those in excess of an individual's normal purchasing authority, may be made by the Purchasing Agent, or when the Purchasing Agent is not immediately available, by a department head. Emergency purchases of services shall be reported to the Purchasing Agent as soon as possible, and no later than 30 days from the date of the emergency.~~

Commented [MW23]: Section 3.12.240 – Emergency purchases of services – REMOVED – comparable language appears in proposed Policy C-17, 2.9

~~Sec. 3.12.250. Delegation of authority.~~

~~At the request of an agency or department head, the Purchasing Agent may, and where legally required to do so shall, delegate in writing purchasing and signature authorities to any County agency or department head or department personnel to contract for services that are related to the operations of the requesting agency or department. These contracts for services shall comply with this chapter and any County purchasing policies and procedures. The Purchasing Agent may also rescind the delegation of authority under this section by written notice to the County agency or department head, unless otherwise prohibited by law. Any agency or department head or department personnel so authorized under this section shall be considered and designated as an assistant or deputy Purchasing Agent until such authorization is rescinded.~~

Commented [MW24]: Section 3.12.250 – Delegation of authority – REMOVED – comparable language appears in proposed Policy C-17, 5.2

~~Sec. 3.12.260. Procurement of services costing less than \$10,000.00; alternate procedures.~~

~~Pursuant to County Charter Section 602, the procurement of and payment of money to a private entity for the performance of services costing less than \$10,000.00 without a written contract is hereby authorized. The procedures for processing and documenting such purchases shall be specified in the comprehensive policies and procedures governing purchases of services, supplies and equipment adopted by the Board of Supervisors in accordance with Section 3.12.020.~~

Commented [MW25]: Section 3.12.260 – REMOVED – comparable language appears in proposed Policy C-17, 5.3.1