



# A. PURCHASING POLICY AND PROCEDURES

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Finance Department  
Adopted December 5, 2016

## Town of Lyons Purchasing Policy and Procedures

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# **A. PURCHASING POLICY AND PROCEDURES**

## 1. Purpose

The purpose of this policy and procedures is to provide Town employees with instructions on how to purchase supplies, services and construction in a responsible manner.

It is not the intent of this document to cover every possible situation; rather it is to give Town employees enough information so they are in a better position to make reasonable purchasing decisions that best serve the Town and its citizens.

## 2. Policy

To ensure that the best values for supplies, services and construction are obtained when using Town funds. To achieve this goal, the Town shall employ efficient, effective and consistent purchasing practices.

The Board approves the annual budget at the fund level. If a purchase will cause the budget to exceed approved fund levels, or a purchase has not been approved in the annual budget and subsequent revisions, the purchase must be routed through the proper Town processes for Town Board approval.

Purchases and/or payments may be placed on hold if these procedures are not followed. Town employees that do not follow the Purchasing Policy and Procedures may be subject to disciplinary action.

## 3. Procedures

### **a. Code of Ethics and Conflict of Interest**

The Town expects all of its employees to act in the best interests of the Town and its constituents. It is the responsibility of all employees to observe all rules, guidelines, operating procedures and directives of the Town. The Town further expects that each of its employees will behave with courtesy and respect toward other employees and members of the public. Specific rules of conduct adopted by the Town or described in these guidelines are not meant to be all inclusive, but rather address some common and serious potential problems.

### **b. Roles and Responsibilities**

- 1) Finance and Accounting
  - i. Instruct employees on the purchasing policy and procedures
  - ii. Provide assistance to employees making purchases
  - iii. Maintain files, including but not limited to, contracts, invoices, payment, proof of payment

- iv. Provide guidance on purchasing process during declared emergencies
- v. Monitor credit card activity
- vi. Manage template contracts (see Contract Management Section)

## 2) Records Department

Documents are managed by the Records Clerks who administers records from the beginning to the disposition of records. The Town follows the Colorado Model Municipal Records Retention Schedule.

## 3) Departments (making purchases)

- i. Department Directors are authorized to make purchases as delegated in writing by the Town Administrator and with notification to the Board of such delegation of authority. If such delegation is in place Department Directors are authorized to make purchases not to exceed \$2,500 and must be approved in the budget.
- ii. Department Directors are required to ensure that employees are properly trained on purchasing processes.
- iii. Plan for purchases in advance to allow for adequate time to properly complete purchasing requirements.
- iv. Before making purchases of supplies, services and construction check existing inventory, current Town vendor accounts, and existing contractors and consultants to avoid duplication of purchases and unnecessary purchasing efforts. Confer with the Finance Department accounts payable for existing accounts and vendors.
- v. Make every effort to ensure quotes, invitation for bids (IFB), request for qualifications (RFQ) and request for proposals (RFP) meet the legal and ethical standards required to protect the Town, and ensure full and open competition that is free from bias. Consult with Town Attorney as necessary.
- vi. The Town participates in the Rocky Mountain e-Purchasing online system to advertise and manage solicitations.
- vii. Work with the Town's communication and/or web employee to post all solicitations on the Town website.
- viii. Fully participate in the selection of contractors. The Town is responsible for the selection of contractors and reserves the right to engage citizens who will serve in an advisory capacity during the review of quotes, proposals and bids.
- ix. Facilitate proposal and bid evaluation processes to ensure compliance with this policy that lead to a justifiable selection decision.
- x. Document procurement selection processes; include reasons for the selection of one contractor over others; reference criteria used to evaluate responders.
- xi. Notify contractors following evaluation process of the selection decision;

- issue notice of award as appropriate.
- xii. Work with the Town Attorney to develop, review and implement contracts as indicated as appropriate. Use Town contract templates and provide to Town Attorney with appropriate exhibits (for example, Scope of Work and Compensation) with sufficient time for contract preparation and signature by contractor prior to Town signature.
  - xiii. Submit fully executed copies of contracts to Records Department for documentation management and a copy to the Finance Department with all referenced attachments.
  - xiv. The Town sets up new vendors in Caselle and includes vendor name, contact information, W9 and any other pertinent information. New vendors are often set up with the first invoice so employees approving invoices must confirm this information is included on the invoice.
  - xv. Maintain complete and accurate project files.
  - xvi. Maintain good contractor relations and address contractor and subcontractor complaints, including protests, in a timely manner.
  - xvii. Work with contractors to ensure that invoices are sufficiently detailed and include itemized list of goods or services (description), service or delivery date, invoice date, location, quantities, contractor identification and contact information.
  - xviii. Submit invoices according to the Town's check run dates.
  - xix. Process and submit invoices to Finance Department within two (2) weeks of receipt. Notify finance department in writing in the case of a disputed invoice, and any delays in processing invoices, the reason and anticipated timeline for submitting invoices. Follow the processes for disputed invoices set forth in the contract and consult with the Town Attorney as appropriate. The Town uses a general email address to receive all invoices for centralized management.

**c. Purchasing Requirements**

- 1) As required by Section 4-3-40(e) of the Lyons Municipal Code, no purchases shall be subdivided or split to avoid purchasing thresholds set forth in that Code. This includes dividing orders, splitting requirements for a job or project, and repetitive purchases of the same or similar items.
- 2) Do not use an existing consultant or contractor for work that is outside the scope of work approved in their contract and that would generally require a competitive procurement process.
- 3) In accordance with Section 4-3-50 of the Lyons Municipal Code, purchasing and contracting procedures and thresholds are automatically suspended if the Town Administrator issues an official declaration of a local disaster emergency. If this

occurs, the applicable provisions of the LMC shall govern purchasing for the duration of the declared disaster emergency.

- 4) Three (3) quotes, proposals or bids are standard requirements for purchases; if 3 are not obtained, document solicitation process and reasons for a lack of response. Consider going out for solicitation again if time allows. Conduct a price analysis if you receive fewer than 3 responses. Document vendors or contractors interested but decided not to respond.
- 5) Avoid acquisition of unnecessary or duplicative items.
- 6) Participate in intergovernmental agreements when appropriate. Consult with Town Administrator and Town Attorney as necessary.
- 7) Those with purchasing authority must be aware of possible conflicts of interest such as contractors who develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals might have an unfair advantage of other contractors when it comes to responding to purchasing opportunities.

**d. Purchasing Limits, Procedures and Documentation**

The Town Administrator serves as the purchasing official and as such is responsible for procurement of goods, supplies, services and construction. The spending authority for the Town Administrator is capped at \$2,500 for goods, supplies and services; and at \$10,000 for construction.

Table 1: Purchasing Authority for Goods, Supplies & Services

**GOODS, SUPPLIES, SERVICES**

	AUTHORIZATION & APPROVAL		
	TOWN ADMINISTRATOR	BOARD	
PURCHASES	≤ \$2,500	> \$2,500	Administrator must <i>report</i> all purchases to the Board that are >\$2,500
CONTRACTS	≤ \$5,000	> \$5,000	Approve, sign & terminate contracts; Administrator can approve contracts for <i>budgeted</i> purchases of ≤\$5,000
CONTRACT MODIFICATIONS	≤ \$2,500	> \$2,500	Contract amendment

See section 1. on Blanket Agreements for criteria for determining the value of a purchase.

Table 2: Purchasing Authority for Construction

**CONSTRUCTION PROJECTS**

	AUTHORIZATION & APPROVAL		
	TOWN ADMINISTRATOR	BOARD	
PURCHASES	≤ \$10,000	> \$10,000	Administrator must <i>report</i> all purchases to the Board that are >\$10,000
CONTRACTS	≤ \$20,000	> \$20,000	Approve, sign & terminate contracts; must include bid tabs to the Board; Administrator can approve contracts for <i>budgeted</i> purchases of ≤\$20,000
CHANGE ORDERS	≤ \$10,000	> \$10,000	Contract amendment & modifications

**Table 3: Purchasing Matrix, Purchase type: Goods, Supplies & Services  
Quotes and Requests for Proposals**

<b>Amount</b>	<b>Procedures</b>	<b>Procedures Detail</b>	<b>Documentation</b>
≤\$2,500	Written quotes required	Minimum of 3 written quotes from qualified sources. Document non-responses.	Written quotes from vendors Document selection process Board notification Town contract Detailed invoices e-Purchasing option
>\$2,500	Formal proposal (RFP) process	Minimum of 3 proposals from qualified sources. Professional services: qualification-based selection, negotiate costs.	Document RFP process Advertise, e-Purchasing Document selection process Statement of qualifications Board approval Town contract Insurance as applicable Detailed invoices Document no responses

**Table 4: Town Purchasing Matrix, Purchase Type: Construction  
Invitation to Bid**

<b>Amount</b>	<b>Procedures</b>	<b>Procedures Detail</b>	<b>Documentation</b>
≤\$10,000	Written quotes required	Construction: Price is a factor; lowest responsive and responsible bid that meets criteria, specifications. Document non-responses.  Minimum of 3 written quotes from qualified sources.	Scope Document selection process Town Contract Detailed invoices e-Purchasing option Document non-responses
>\$10,000	Formal solicitation process, invitation for bids (IFB)	Minimum of 3 bids from qualified sources.	Scope Document bid process, bid tab Advertise, e-Purchasing Document selection process Document responsive & responsible bidders Town Contract Detailed invoices Document no bid responses

Note some exceptions listed in Table 5.



Table 5: Purchase Process Exception and Alternative Purchasing Process

<b>Alternative Purchasing Process Allowed (see Finance Dept. for allowed processes)</b>
Bond payments
Collection services
Escrow payments
Hardware & software if brand type is needed
Insurance claims such as for property damage (not premiums)
Insurance premiums
Land, Water Rights, Right of Ways/ Easements
Membership dues
Mileage and meal allowances, employee travel
Postage
Subsidies
Utilities
Utility Deposit refunds

**e. Tax exemption**

The Town is exempt from paying Colorado sales tax. The Finance Department will provide appropriate purchasers (employees, approved contractors) with Federal and State exemption certificates or numbers.

Contractors using the Town exemption status shall make every effort to have sales tax excluded from purchases by completing a DR0172 form.

**f. Solicitation through bids, proposals, quotes and qualifications**

Invitation for bids (IFB), request for proposals (RFP), request for qualifications (RFQ) and request for quotes must include sufficient instructions and information so as to allow for adequate and appropriate responses.

1) Formal Bid and RFP Process

- a) Use Rocky Mountain e-Purchasing system.
- b) Post bids and proposal opportunities on the Town website.
- c) Distribute information on bid packets, RFPs and quote requests directly to potential vendors.
- d) Advertise for a minimum of 14 days.
- e) Schedule pre-proposal or pre-bid meetings as appropriate with sufficient notice to allow prospective vendors to attend. This meeting is organized and facilitated by the Project Manager and its purpose is to review the solicitation and answer questions.

- f) An addendum will be released if indicated so all prospective vendors have an opportunity to obtain this; it is vendor's responsibility to retrieve the addendum.
- g) A bid in the possession of the Town may be altered in writing with the signature of the person signing the original bid provided it is received prior to the time and date of opening. Verbal alterations will not be accepted. The Town will not accept alterations after the time and date of bid opening.
- h) A bid in the possession of the Town may be withdrawn by the bidder up to the time of the bid opening, and may not be withdrawn after bid opening. After opening, the results will be tabulated and recorded in an understandable, obvious fashion. Analysis of award shall be available for review open request by the public.
- i) Bids received after the date and time specified in the bid posting shall be rejected and shall not be opened or considered. Also, bids that are not responsive in form or other requirements will not be considered.
- j) Bids shall be opened and summarized through an announcement at the time and place stated in the advertisement in the presence of one or more witnesses.
- k) In the case of error in the extension of prices in the bid, the unit price will govern.
- l) Bids and quotes must be inclusive of all costs, i.e., installation, training, shipping.

## 2) Formal Bid and RFP Packet

Management of pre-submission questions includes:

- a) Establish a time line to be followed for accepting and closing questions.
- b) Questions must be submitted in writing.
- c) Responses must be shared with all potential bidders (posted on e-Purchasing).

### *Solicitation documentation*

This includes standard contract provisions and complete scope of work with detailed specifications that are critical to the success of the project and provides the responders the opportunity to describe adequately all proposed deliverables and costs including compensation methodology. There are many resources available that provide guidance, instruction and examples on solicitation packets.

Each department is required to conduct a cost estimate prior to posting solicitation to the best of its ability.

Conduct a pre-bid or pre-proposal meeting as indicated.

Establish a review committee.

- 3) Documented Quotes
  - a) The vendor's response constitutes an "offer" and is binding if the Town accepts the quote.
  - b) All quotes should be obtained in short time frame to make a reasonable comparison; suggest within one (1) week.
  - c) Quotes should not include sales tax if materials and supplies are purchased within the State of Colorado.

**g. Evaluation of Bids, Proposals and Quotes**

- a) Bids, proposals and quotes must be received by the date and time specified in the solicitation packet. The Town will not be held responsible for any responses received late due to mail or shipping delivery, traffic, weather, technical difficulties, etc.
- b) Bids and proposals received late will not be considered and this information will be documented.
- c) Bids for construction and formal proposals shall be presented in a sealed envelope with the identified bid or RFP title or number clearly marked on the outside of the envelope.
- d) Each packet received will be date and time stamped by front desk staff who hold all documents until the due time and are then delivered to the project manager.
- e) Bids for construction will be opened at public meeting at the date and time specified in the invitation for bid packet.
- f) Proposals shall be evaluated by a review committee in which the Town has full and final responsibility for the selection. Citizens and contractors may serve in an advisory capacity.
- g) The Town reserves the right to reject any and all bids when such rejection is in the public interest.
- h) Bidders and proposers must be responsive and responsible. They must demonstrate that they are capable of meeting all contract requirements, and have the experience, integrity, capacity, facilities, equipment and credit to assure good faith performance. Past performance, financial capabilities and business management are also considered in determining if a bidder is capable of satisfying the contract requirements.
- i) If bids received are for the same total amount or unit price, quality and service being equal, the Town will resolve the low-tied bids in a manner which in the Town's judgment is in its best interest, including negotiating with all such tie bidders for a reduction of price.
- j) If only one bid is received, the Town may consider going out to bid again if time allows. An award may be made to the single bidder if the Town finds that the price submitted is fair and reasonable, that other prospective bidders had reasonable opportunity to respond, and if approved by the Town

Administrator as a noncompetitive contract award.

- k) Bids shall be evaluated upon the required specifications and awarded on the basis of the lowest and most qualified, responsive and responsible bid for construction work.
  - i. The ability of the bidder to perform the contract or provide the goods and services within the time specified.
  - ii. The reputation, experience and efficiency of the bidder.
  - iii. The comparative quality of the goods and services bid.
  - iv. The bidder's past performance in compliance with laws and ordinances relating to the bidder's service.
  - v. The sufficiency of the financial resources of the bidder to perform the contract or provide the goods and services.
  - vi. The quality, availability and adaptability of the goods and services to the particular use required.
  - vii. The ability of the bidder to provide future maintenance and service as applicable.
  - viii. The number and scope of conditions attached to the bid.
  - ix. The quality of bidder's performance on previous contracts.

Prior to selecting a contractor using the bid process, interviews may be conducted with bidders. Bidders may be asked to clarify their bids. No additional information will be accepted that materially alters the submitted bid after the deadline for submission.

Prior to choosing a consultant using the RFP process, interviews may be conducted with the proposers for clarification of their proposals. After the evaluation process, the authorized representative of the user Department shall meet or confer with the top ranked firm to agree to finalize the scope of work and the contract amount for the proposed services. The Finance Department and Town Administrator may attend this meeting. If an agreement cannot be reached, the firm is notified that discussions are closed and discussions are opened with the firm considered next best qualified. This process continues until an acceptable firm is selected or a decision is made to modify the project and start the process all over again.

#### **h. Sole Source Purchases**

In conformity with a procedure to be promulgated by the Town Administrator that provides for management level review, purchases of supplies, products or services indispensable to the Town for which there is only one source practicably or reasonably available, which exemption requires satisfaction of the following criteria:

- (1) The vendor is the original equipment supplier/manufacturer and similar parts or equipment are not available from another manufacturer; or
- (2) The vendor is the only source of equipment, materials or goods compatible with or conforming to Town-owned equipment, materials or goods and addition of nonconforming equipment, materials or goods would require the expenditure of additional funds; or

- (3) No other equipment, materials or goods are available that can meet the specialized needs of the department or perform the intended function; or
- (4) Detailed justification is available which reasonably establishes that the vendor is the only source practicably available to provide the item or service required; or
- (5) The product, equipment or service is functionally superior to all other competitive products.

**i. Cost and Price Reasonableness and Analysis**

- 1) Cost reasonableness ensures that the Town is obtaining the best value for goods and services. It is recommended that cost reasonableness efforts are conducted on all purchases prior to the solicitation and this can include engineering estimates and comparison with past purchases. It is also recommended that cost analysis is performed on change orders. The method and degree of analysis is dependent on the particular procurement situation and a starting point is the Town must make independent estimates before receiving bids or proposals.
- 2) In certain circumstances, the Town may use design-build projects or other construction methods in which it must negotiate profit as a separate line item.
- 3) To establish a fair and reasonable profit the following must be considered:
  - a) Complexity of the work to be performed
  - b) Risk taken on by the contractor
  - c) Contractor's investment
  - d) Amount/ percent of subcontracting
  - e) Quality of its record of past performance
  - f) Industry profit rates in the surrounding geographical area for similar work

Determining reasonableness can be as simple as reviewing past invoices or comparing pricing/scope with other vendors.

Departments are responsible for estimating costs.

**j. Insurance and Bonding**

Successful bidders requiring insurance will submit evidence of insurance documents, including certificates of insurance and all related policy endorsements in writing to the attention of the Project Manager. Types and levels of insurance coverage are determined according to the size and scope of the project being bid, a risk assessment performed by the Town, changes to relevant laws, etc. No work shall commence on any Town project until all such proof of insurance has been received by the Town. The Town must be named as an additional insured and ensure that the successful bidder procures all related policy endorsements. Amount of required insurance must be commensurate with the scope and value of the project, and shall be determined by the Town prior to beginning the project.

Bonding requirements

Minimum bonding requirements are as follows:

- 1) A bid guarantee from each bidder equivalent to five percent (5%) of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- 2) A performance bond on the part of the contractor for one hundred percent (100%) of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor’s obligations under such contract.
- 3) A payment bond on the part of the contractor for one hundred percent (100%) of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

**k. Protests**

When to File: Protests must be submitted in writing (via email, U.S. Mail or courier) and received by the Town Administration at 423 5<sup>th</sup> Avenue/ PO Box 49, Lyons CO 80540 within fifteen (15) working days after notification of award has been published on e-purchasing or the Town’s website.

Protests based upon restrictive specifications or alleged improprieties in any type of solicitation, which are apparent prior to either the bid opening or the closing date for receipt of proposals, must be filed no later than three (3) working days prior to the bid opening date or proposal closing date.

Process: The protest must include, at a minimum, the following:

- 1) The name and address of the protestor
- 2) Appropriate identification of the procurement by Bid number title or Request for Proposal Number or Title
- 3) A statement of the reasons for the protest
- 4) Any available exhibits, evidence or documents substantiating the protest

Decision: The Town Administrator shall make a decision, in writing, on a protest within seven (7) working days after receiving all relevant, requested information. This decision shall be based on and limited to a review of the issues raised by the protesting bidder, offeror, or contractor, and shall set forth each factor taken into account in reaching the decision. The decision of the Town Administrator is final.

Withholding of Award: If a protest has been filed before an award, the Town will not make an award before it has resolved the protest. If a protest has been filed before the opening of bids or closing of request for proposals, the Town will resolve the protest prior to closing the solicitation, unless the Town determines that:

- 1) The items to be procured are urgently required; or
- 2) Delivery or performance will be unduly delayed by failure to make the award promptly; or
- 3) Failure to make prompt award will otherwise cause undue harm to the Town

### **l. Blanket purchase agreements**

Having contracted vendors that have been properly procured can simplify meeting recurring needs for supplies and services, while leveraging buying power and taking advantage of quantity discounts, saving administrative time, reducing paperwork, and stabilizing a source of supplies and services. Blanket purchase agreements can be especially useful during emergencies when short-term notices are needed.

Departments should evaluate particular categories of goods or services that would be most advantageous from a blanket purchase agreement. This statement of need must be documented.

- . Contracts must have a scope of work that is inclusive of the possible uses of the vendor. Too narrow of a scope prohibits the vendor from providing certain services and supplies.
- . Vendors must have been procured following the Town procedures.
- . Blanket purchase agreements must be renewed annually through a contract renewal (amendment or modification).
- . Blanket purchase agreements must not exceed five (5) years and can be between one and five years.
- . Prices are secured for the blanket purchase agreement time frame.
- . Some factors that may determine the need for blanket purchase agreements include recurring need, long lead time items, high volume usage, custom items, indefinite delivery and quantity.
- . Failure of a vendor to perform in a manner satisfactory to the Town will eliminate the vendor from the active list.
- . The Town may have multiple vendors to provide similar supplies or services such as office supplies.

### **m. Permissible Renewals/Extensions**

Contracts may be extended, renewed or amended to extend or renew without further procurement action or additional approvals only if:

- (1) The soliciting document contemplated amendment or optional renewal terms; and

- (2) the contract specifically recognized that renewal or amendment was an option; and
- (3) approval of the contract was at the level that would be required for the contract adding in the additional compensation payable due to the extension, renewal or amendment; and
- (4) any additional services or service scope change are reasonably related to the services contracted for in the original contract; and

**n. Urgent or Emergency Expenditures**

An urgent or emergency is a situation that creates an immediate need for the Town to respond and/or a threat to the health, safety and the welfare of the community and the preservation or protection of property. Often during an emergency, there is insufficient time to thoroughly follow purchasing requirements and the Town Administrator may implement emergency purchasing processes that alter these procedures. Once the situation no longer constitutes an immediate threat to the public and property, it is no longer considered an emergency and the Town returns to its purchasing procedures. This period of time is generally very short ranging from a few hours to a few days and maybe a few weeks.

The Town Administrator must inform the Town Board at the first opportunity of the situation.

The following emergency procedures will be implemented when the Town Administrator or Board of Trustees declare an emergency or an urgent need.

Emergency purchasing must be made with such competition as is practicable under the circumstances. Only the quantity of goods or services necessary to alleviate the emergency may be purchased under emergency conditions. Every effort must be made to secure purchases that are cost reasonable as circumstances allow while protecting people and property including Town assets. Documented quotes should be obtained whenever possible. Disbursements may be made upon receipt of invoices describing the goods or services being purchased and the amount to be paid.

1) Solicitation

As circumstances allow, quotes should be solicited by phone or email from at least 3 qualified sources that can respond quickly. Soliciting from contractors already in the area is acceptable. If this is not possible then the reasons must be documented. It is not acceptable to issue work to a contractor with no regard to costs and competition. Regardless of the timeframe, a written contract must be produced even if the work has started.



2) Contract work authorization

Written authorization must include the following:

- a) Scope of work and project limits
- b) Required time to start work
- c) Expected duration of work
- d) Estimated quantities
- e) Method of measurement
- f) Payment process
- g) Estimated total costs
- h) Department and employee making the emergency purchase request
- i) Approval of emergency purchasing (Town Administrator)

3) Documentation

Documentation is critical for expenses to be considered reimbursable if a disaster is declared at the state and federal levels. When Town, state, and federal purchasing processes apply, Town staff must follow the most restrictive process.

During an emergency, especially early response, all information may not be readily available. This should be noted and information added as it does become available.

4) Avoiding Unnecessary and Duplicative Purchases

The Town provides for a process to avoid purchase of unnecessary or duplicative items. To accomplish this, the Town considers consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. [44 CFR 13.36 (b)(4)] and [2 CFR 200.318(d)]

## Initials, acronyms, definitions

In addition to the terms defined in Section 4-3-20 of the LMC, the following definitions apply to this policy:

Capital outlay (also known as Fixed Assets): Includes Personal Property and Real Property that has a useful life greater than one year and costs \$5,000.00 or more per item.

Construction: means the process of building, altering, repairing, improving, remodeling, replacing or demolishing any structure or building, or other improvements of any kind to any real property. The term *construction* does not include the routine operation, repair or preventative maintenance of an existing structure, building or real property.

Cost analysis – conducted to form an opinion on the degree to which the proposed cost, including profit, represents what the performance of the contract ‘should cost’, assuming reasonable economy and efficiency. This is a federal grant requirement (2 CFR §200.323) and should be used on purchases when full and open competition is not conducted to ensure that costs are fair and reasonable. There is a variety of methods used to reach price and cost reasonableness. Independent cost estimates (ICE) are performed prior to solicitation and are a tool for measuring cost reasonableness.

Cost reasonableness – a method of determining that costs are fair and reasonable. This is accomplished through a full and open competition. If a full and open competition was not conducted then other bases for this assessment include price lists, previous invoices or purchase orders for the same or similar supplies or services, or costs other municipalities paid for the same or similar goods and services.

Invitation for bids (IFB) – formal solicitation process for fulfilling a need for specific product or service; generally used with construction projects, requires receiving and evaluating contractor responses.

Liquidated damages – a specific sum provided for in contracts which are agreed upon to be a fair and reasonable estimation of actual damages which would be incurred in the event of contractual breach by the Town or the vendor. Liquidated damages replace actual damages when it is too difficult to determine the amount of actual damages. Contracts that include liquidated damage clause must establish the actions or omissions that constitute a breach.

Payment bond – a bond which assures payment to all persons supplying labor or material for the completion of a project under a contract. A payment bond executed in connection with a contract secures the payment requirements of a vendor. It is a written promise to pay if certain circumstances occur or certain time elapses. The bond is given by a Surety to cover any amounts that are not paid to sub-contractors or suppliers.

Performance bond – is executed subsequent to award by successful bidder to protect the Town from loss due to bidder's inability to complete the project as agreed. A performance bond secures fulfillment of the contractual obligations and ranges from 2%-5% of the value of the performance secured.

Price analysis – examination of a proposal by comparing with outside criteria such as internal estimates, other proposals prices or established market prices and does not evaluate separate cost elements. Conducted following a competitive [word missing]?. An evaluation of the offeror's price relative to the prices being offered by other contractors and being paid by the general public for the same or similar goods or services.

Request for proposals (RFP) – formal solicitation process for fulfilling a need for specific product or service; requires receiving and evaluating contractor responses. Often used for professional services acquisitions.

Request for qualifications (RFQ) – formal solicitation process for fulfilling a need for specific product or service; requires receiving and evaluating contractor responses; focuses on qualification and price. Often negotiated following selection based on qualifications.

Responsive bidder – bids are determined to be in substantial conformance with the conditions, completion or delivery requirements.

Responsible bidder – a bidder that has the capability to perform fully all contract requirements, and has the experience, integrity, capacity, facilities, equipment and credit assuring good faith performance. Past performance, financial capabilities and business management are among the criteria for determining if a bidder is capable of satisfying the contract requirements.

Quotes – informal solicitation process for fulfilling a need for a specific product or service; requires receiving and evaluating responses from potential contractors.

Vendor, supplier and contractor – may be used interchangeably; the new OMB Federal Grant Guide eliminated the term vendor and only uses contractor.