

**COUNTY OF IMPERIAL
BOARD OF SUPERVISORS POLICY**



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PURPOSE

The purpose of the Procurement Policy is to establish guidelines for the provisions set forth by Section 25500 et seq. of the Government Code of the State of California and Imperial County Ordinance 2.52.010. This includes authorization, soliciting, and appropriate conduct of purchasing activities relating to the acquisition of approved goods and services for Imperial County. This policy is intended to provide a transparent, competitive, fair, and impartial process for conducting business with Imperial County’s vendor community.

All purchases must be made in accordance with this policy, other County policies and procedures, as well as all applicable laws and are subject to audit at any time. If applicable, failure to comply with this policy may result in disciplinary action.

This Procurement Policy supersedes all previous purchasing manuals, policies, and written procedures not consistent with this policy.

RESPONSIBILITIES

PURCHASING DEPARTMENT:

The Imperial County Board of Supervisors has adopted a centralized purchasing system and has designated the Purchasing Department to be responsible for the administration of that system. The Purchasing Manager acting as the ex-officio Purchasing Agent, shall have the duties and powers prescribed by law for county purchasing agents. Under that authority, the Purchasing Department is responsible for the following activities:

- Assist departments in matters related to the identification of possible supply sources, alternative product examinations, specification preparation, order follow-up and material expediting, and adherence to all contract terms and conditions.
- Assist departments in determining the appropriate method of acquisition and solicitation.
- Purchase, rent, or lease of supplies, equipment and services.
- Sell, lease, trade, or otherwise dispose of personal property that is no longer needed for County use.

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- Registration of County-owned vehicles and heavy equipment.
- Administration of the Cal-Card (procurement card) program.
- Prepare, maintain, and amend the procedures to implement the Procurement Policy.

COUNTY DEPARTMENTS:

Departments are responsible for the following activities:

- Ensure that all purchases are made for official county business and make appropriate use of County funds.
- Submit requests for the acquisition of goods and services in a manner suitable to the type of solicitation required.
- Assure all requests are properly budgeted in the appropriate account.
- Provide adequate descriptions, specifications, scopes of work, or other instructions to assure a clear understanding of the requirements, including special conditions required by any grant or alternative funding source to be used for the purchase.
- Provide punctual responses to questions throughout the procurement process.
- Provide adequate inspection, receiving, and quality control practices for all purchases.
- Assure receipt and payment for good and services are documented and paid in a manner consisted with the approved contract and within the applicable prompt payment discount timeframes.
- Consult with Procurement as needed for assistance with resolving problems with product or service delivery and vendor performance.

COMPETITIVE PROCUREMENT

It is the policy of Imperial County to make appropriate use of County funds and promote transparency through the use of open and full competition to the maximum extent possible. Contracts for the purchase of county personal property or services shall be awarded as the result of a competitive process, except as otherwise provided for in this policy or by law where a competitive process is required.

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THRESHOLDS

The following thresholds apply to procurement activities for the purchase of any goods or services required by Imperial County departments and agencies where a competitive process is required, except for public projects.

Imperial County Thresholds		
Equal to or less than	\$2,500	Small Purchases
Between	\$2,500 and \$50,000	Informal Solicitation
More than	\$50,000	Formal Solicitation

Example of thresholds used by the Sheriff's Office:

APPROVAL AUTHORITY	DOLLAR THRESHOLD	EXAMPLE OF PURCHASE	PURPOSE OR METHOD OF PURCHASE
Sheriff's Office	Small Purchases \$0-\$2500	15 pair of work gloves	For inmate workers
Purchasing Agent	Informal Solicitation \$2500-\$50,000	2 Lawn mowers	Purchasing solicits for best value or accepts quotes as submitted by department
Board of Supervisors	Formal Solicitation \$50,000 and above	Inmate Telephone and Video Conferencing Services	A formal Solicitation would be used to find most qualified vendor. Award would be made by Board of Supervisors

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Purchases shall not be artificially divided to circumvent any competitive bidding requirement. In addition, no department or employee shall draft or cause to be drafted any specifications in such a manner as to limit the bidding directly or indirectly to any one specific vendor, or any specific brand, product, thing, or service, except for those items that are standardized for a particular purpose, are approved as exempt from competitive bidding requirements, or are approved as sole source purchases.

Public works projects are governed by the California Public Contract Code and have different thresholds. Solicitations must be made in accordance with applicable State Code and requirements.

SMALL PURCHASES

Department heads or designees are authorized to make individual purchases of products and services with an estimated total cost of \$2,500 or less, including tax, installation, and freight, if in the opinion of the department head, such direct purchases are in the best interest of the County.

The delegation of authority to make small purchases is not intended to be a substitute for centralized purchasing, or to be used to engage in repetitive purchasing without adequate analysis and competition. The following products and services are not authorized for direct purchase without prior approval from the Purchasing Department:

- Furniture and furnishings
- Construction, improvements, and maintenance of facilities
- Information technology software & hardware
- Telecommunications equipment
- Road projects, including parking lots
- Vehicles and heavy equipment
- Apparel
- Boots or uniforms negotiated within an employee MOU
- Any products or services available through department or Countywide contracts

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INFORMAL SOLICITATIONS

Purchases of goods or services with an estimated total cost of \$50,000 or less may be conducted through informal solicitation. If in the Purchasing Agent or designee’s judgement, a formal solicitation is in the best interest of the County, a formal solicitation process will be used.

Informal solicitations may be handled either by the department or Purchasing Department. A minimum of three quotes for the goods or services will be sought and evaluated to determine the lowest responsive and responsible bidder or the best value to the County. Final approval of any quote shall be determined by the Purchasing Agent or designee. Any award based on an informal solicitation shall be documented with the applicable reason and justification for the award.

FORMAL SOLICITATIONS

Purchases of goods or services with an estimated total cost of more than \$50,000 shall be made in accordance with the applicable procedures for Formal Solicitations and this section, which sets forth the requirements for competitive sealed solicitations, including but not limited to Invitations for Bids, Requests for Proposals, Requests for Qualifications, Requests for Information and any other formal solicitation method.

A. Public Notice and Solicitation Period

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

B. Specifications/Scopes of Work

Specifications and scopes of work shall permit free and full competition to the maximum extent possible under the attendant circumstances. The Purchasing Department shall make the final determination of the acceptability of specifications and scope of work requirements to be included in any solicitation.

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A firm or vendor may be utilized as a professional consultant to assist the County with the development of the specifications. Such firms or vendors who participate in this capacity are prohibited from responding to the resulting solicitation. Vendor information from current and or past solicitations may be used as long as the information is not proprietary or will serve as a single-supplier specification.

Solicitation documents must identify all criteria which will be considered in an award recommendation.

C. Addendum(s)

Addenda shall be distributed to all firms known to have received solicitation documents. Addenda which are issued within four (4) County working days of the solicitation due date must also include an extension of the due date. The extension must be not less than four (4) County working days from the date the addendum is issued. Addenda which cancel a solicitation in its entirety may be issued at any time prior to the solicitation's posted due date.

D. Receipt of Responses/Opening

Vendors shall respond in the manner set forth in the solicitation.

Late responses to the County's solicitations shall not be accepted.

Formal solicitations shall be received via a secure method which prevents anyone from viewing the responses until after the deadline specified in the solicitation.

All responses shall be opened in the presence of one or more witnesses and in a public forum, at the time and place designated in the solicitation, and shall be administered by the Purchasing Agent or designee.

E. Public and Confidential Records

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Responses to Requests for Proposals and Requests for Qualifications shall be considered confidential records upon receipt and throughout the evaluation process.

Responses to Invitations for Bids shall be considered public records immediately upon opening of the responses. Copies of the bid responses and other associated documents shall be made available upon request.

Records maintained by Purchasing to document processing and award of any solicitation shall be kept in accordance with the County's document retention policy.

F. Solicitation Clarifications

A firm may be permitted the opportunity to furnish other information called for by the solicitation and not supplied in the original response, provided it does not affect the price of the contract and does not give the responding firm an advantage or benefit not enjoyed by other respondents, in accordance with the criteria established in the solicitation.

A firm shall not be permitted to correct a response for errors of judgment.

The Purchasing Agent or designee shall maintain complete and sufficient records of evidence used to identify the oversight and the clarified response.

G. Option to Reject, Waive, and/or Re-Solicit

The Purchasing Agent or designee shall maintain complete and sufficient records of evidence used to justify any action taken under this section.

1. The County reserves the right to reject a response which is in any way incomplete, irregular, amplified, unqualified, conditional, or otherwise not in compliance with the solicitation documents in all material respects.

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2. The County may waive any informality, irregularity, immaterial defects, or technicalities in any response.
3. The Purchasing Agent or designee has the final authority to reject or cancel a solicitation, prior to or after receipt of responses, if it is determined that an award would not be in the best interest of the County. If the responses are rejected or the solicitation is cancelled, the County may re-advertise the product or service or negotiate, whichever is in the best interest of the County.

H. Evaluation and Award

Responses to a solicitation shall be evaluated and awarded based on the criteria specified in the solicitation. Responses shall be inspected, reviewed, and evaluated by the Purchasing Agent or designee, who may request input and/or assistance from other County staff. Awards shall be made to the firm who submitted the lowest responsive and responsible bid, or to the highest ranked firm, as determined by the method specified in the solicitation. All evaluations shall provide sufficient justification for the award recommendation.

Notice of awards may be made available in a public forum and may include the date of the award, the successful vendor name, and the contract amount.

I. Option to Cancel Award

Failure on the part of the awarded firm within the time allowed to execute an awarded contract, furnish an acceptable performance bond, or comply with any other requirement imposed prior to execution of the contract shall be considered just cause for cancellation of the award and forfeiture of any applicable bid security. The Purchasing Agent or designee may award a contract to the next lowest responsible and responsive bidder, or to the next highest ranked firm, as determined by the method specified in the solicitation, re-advertise the solicitation, or take any other actions deemed appropriate by the County.

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EXCEPTIONS TO COMPETITIVE SOLICITATION

The use of a competitive solicitation process is required unless there is an authorized basis for an exception, as defined below or as permitted for by law. Exceptions must be exercised indiscriminately as a method of circumventing the competitive process and related County policies.

- A. Purchases made from other public agencies competitive solicitations, or by use of Joint Powers Agreements, Cooperative Purchasing programs, Pooling Agreements, and other recognized types of agreements used by government agencies to combine agency requirements for purchases.
- B. Expert and professional services which involve extended analysis, the exercise of discretion and independent judgment in their performance, and an advanced, specialized type of knowledge, expertise, or training customarily acquired either by a prolonged course of study or equivalent experience.
- C. The Purchasing Agent or designee determines that it is in the best interest of the County to extend or renew a contract, provided the extension or renewal does not adversely affect the integrity of the original award. Such extensions or renewals shall not be excessively utilized without Board approval.
- D. The Purchasing Agent or designee determines that competitive proposals do not produce any advantage, or it is impractical to obtain what is required and to observe a competitive process.

SOLE SOURCE/SINGLE SOURCE

A contract or purchase may be awarded without a competitive process if it meets either of the following criteria:

- A. Sole Source – a product or service which is the only product or service that satisfies the department’s operational requirements, usually because of a technological, specialized, or unique character, or proprietary nature.

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- B. Single Source – a product or service that can only be obtained from a sole provider.

EMERGENCY PURCHASES

An Emergency is defined as an unexpected and pressing situation which requires swift and immediate procurement action precluding regular procurement policy and is essential to public life, health, safety, or improved property of the County.

- A. Department Level Emergency – In the event of an emergency which requires immediate action at the department level and limits the ability of the County to conduct a competitive solicitation, the department director or authorized designee may authorize an exception to the standard Procurement Policy and related procedures to address an immediate need. Emergency purchases between \$1,500 and \$2,500 are subject to ratification by the Purchasing Agent, CEO, or their designee.
- B. Local Emergency – In the event of a local emergency proclamation, procurement actions necessary to acquire the goods and services required to address an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures may be performed outside of the existing policy requirements. The existing policy may be modified, waived or suspended, where deemed necessary, subject to the approval of the Board of Supervisors, as prescribed in the Public Contract Code Section 22050.
- C. State & Federal Emergency – In the event of an emergency declared at either a State or Federal level, all procurement actions necessary to acquire the goods and services required to address an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures shall be pursuant to applicable State and/or Federal policies and procedures.

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UNAUTHORIZED PURCHASES

All purchases must be made in accordance with this policy, other County Policies, as well as all applicable laws and are subject to audit at any time. Departments are responsible for ensuring that all purchases are made for official county business and make appropriate use of County funds.

The Purchasing Agent shall investigate any Unauthorized Purchase that is brought to his/her attention and determine the actions necessary to correct the matter. Actions may include but are not limited to: approval or ratification of the purchase by the Purchasing Agent or Board of Supervisors; return of the items purchased, and/or; refer the issue to the applicable Department Head for disciplinary action. However, if it is determined that any purchases are deemed potentially illegal in nature, the matter will be referred to the appropriate law enforcement agency for further investigation.

IMPERIAL COUNTY PREFERENCE

LOCAL PREFERENCE

A Local Vendor Preference Policy was established and passed by the County’s Board of Supervisors on October 29, 2013 by Minute Order No. 10. A business qualifying for a local preference credit shall meet the following criteria:

- A valid business license from the County of Imperial; and
- A Principal business office or a satellite office located within the County of Imperial which is staffed by at least one full time employee or the equivalent of one full time employee

The local preference does not apply where prohibited by law or regulation including but not limited to Public Works Contract or specified State or Federal funded projects.

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Awarding of Preference is as follows:

- When the lowest bidder is not a local vendor, a local vendor whose bid is within 10 percent (10%) of the lowest bidder may match the lowest bid. The offer to match must be in writing and personally delivered to the Purchase Agent or designee within two (2) business days of the date of the bid opening.
- Where more than one local vendor meets the criteria above, priority shall be given to local vendors in order of proximity to the lowest original bid.
- Where a local vendor and a non-local vendor submit equivalent bids, the Purchasing Agent shall give preference to the local vendor.
- The Purchasing Agent may ask bidders requesting a preference to provide documentation evidencing eligibility. Any bidder who intentionally misrepresents their eligibility to receive a bid preference may be disqualified by the Purchasing Agent from the bidding process and from submitting future bids for up to three (3) years.

PUBLIC WORKS

A public works project is any work done on or to a public facility (or property such as a parking lot) or anything that is part of the facility or attached to it. Carpet installation and modular office furniture is included. The County of Imperial has adopted the Uniform Public Construction Cost Accounting Act (“UPCCAA”) VIA Chapter 4.08 of our codified ordinances to provide for informal and formal bidding procedures for public projects.

Competitive bidding on a public project is **not required** when the cost is \$60,000 or less. These public projects may be performed by County employees by force account, negotiated contract or purchase order.

All public works project requests must start with a Construction Project Request Form available on the County Public Works Facilities Maintenance webpage or by contacting County Facilities Maintenance at 442-265-4528.

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RECYCLED PRODUCTS

It is the policy of the County to purchase recycled products in accordance with the Recycled Products and Recycled Materials Procurement Policy passed by the Board of Supervisors on September 19, 2006, Minute Order No. 37.

PROTESTS

Bidders may not protest the contents of the specifications of the bid nor the award based on the use of the local vendor preference policy.

Any participating vendor may file a protest of a contract award or proposed contract award. The protest or appeal must be made in writing within ten (10) days of award notification and contain at least the following information:

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

Resolution of Protests – The Purchasing Agent will investigate the grounds stated within the protest and respond within ten (10) days. The Purchasing Agent’s decision shall stand.

Participating vendor may submit a written notice of appeal on a decision no more than five (5) business days after the date of the final decision by the Purchasing Agent. Written notice of appeal must be filed in writing to the Imperial County Board of Supervisors, attn. Chairman, 940 Main Street, Ste. 209, El Centro, CA 92243

CONTRACT APPROVAL AUTHORITY

The Board of Supervisors, the County Executive Officer, the Purchasing Agent (or his/her designee), or a Department Head are responsible for the approval of County-issued contracts within the limits contained in this Policy, unless otherwise permitted by ordinance or as expressly authorized by the Board. The following policies set forth the requirements for execution of purchasing related matters.

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BOARD OF SUPERVISORS APPROVAL REQUIRED

- A. All contracts required by law to be approved by the Board of Supervisors.
- B. All contracts with a total cost of more than \$50,000.
- C. Sale, transfer, or disposal of surplus personal property, having an individual current value of more than \$2,500, identified in the Purchasing Agent’s Surplus Pool or an individual item with a current value of more than \$7,500, as identified in the Imperial County Fixed Asset Manual, unless otherwise prohibited by law.
- D. Emergency purchases of goods or services that require Board action in accordance with Section 3.7 of this Policy.

BOARD OF SUPERVISORS RATIFICATION REQUIRED

- A. Orders to construction contracts which ordinarily require Board of Supervisors approval, but are approved by the County Executive Officer or the administering department because of emergency, damage, decay, or where the public interest would suffer by delay, shall be submitted by the administering department at the next regularly scheduled Board meeting for ratification.
- B. Emergency purchases of \$2,500 or more must be submitted by the responsible department at the next regularly scheduled Board meeting.

PURCHASING AGENT OR DESIGNEE APPROVAL AUTHORITY

- A. All contracts with a total cost of \$50,000 or less.
- B. Change orders, alterations, or addenda to a Board of Supervisors’ approved contract that changes or amends the contract in an amount that is not more than ten percent (10%) of the Board-approved amount, not to exceed \$50,000, provided the

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change does not adversely affect the integrity of the original award, and authority for such changes was included with the original Board approval.

- C. Purchases involving a trade-in of less than \$10,000, per California Government Code Section 25503, provided the total contract amount before trade-in does not exceed \$50,000.
- D. Rejection or cancellation of solicitations with an apparent contract award amount of \$50,000 or less.
- E. Ratification of Department Level Emergency purchases between \$1,500 and \$2,500.

COUNTY EXECUTIVE OFFICER APPROVAL AUTHORITY

- A. Contracts with a value of \$50,000 or less for professional services including, but not limited to, studies, investigations, audits, surveys, consulting, or planning.
- B. Contracts for environmental impact reports (EIRs) for County-funded projects up to the limit authorized by California Government Code Section 25502.5.
- C. Ratification of Department Level Emergency purchases between \$1,500 and \$2,500.

DEPARTMENT HEAD AUTHORITY

Department Heads may authorize Small Purchases of goods or services in accordance with Section 3.2 of this policy.

VEHICLE REGISTRATION

The Purchasing Department is responsible for all administrative actions required for the registration of all County-owned vehicles and heavy equipment, except as otherwise

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provided by law. This provision includes processes required for newly acquired vehicles, as well as vehicles approved for disposal, transfer, or sale.

SURPLUS PROPERTY

In accordance with Imperial County Code Section 2.52.110 and Government Code Section 25504, County departments shall transfer excess property to the Purchasing Department. Purchasing shall sell, transfer, donate, dispose of, or exchange surplus property as provided by Imperial County Code, Government Code, and Board of Supervisors' direction. Surplus auctions shall be advertised in a public forum for a minimum of 14 calendar days. The proceeds of surplus property dispositions shall be deposited into the County treasury.

County employees shall not either directly or indirectly participate in the purchase of surplus property if the employee is responsible for surplus declarations, the acceptance of an offer, or assigned to the surplus program within the Purchasing Department.

The Purchasing Agent has the authority to dispose of surplus County-owned property or salvage worth less than \$2,500 with approval of the County Executive Officer.

County-owned surplus property or salvage with a value of more than \$2,500 must be approved by the Board of Supervisors.

Disposal of Surplus Property - Surplus property may be disposed of by means of auction, surplus bid, equipment trade-in, recycling or donation.

PROCUREMENT CARD

Purchasing is responsible for all administrative actions required for authorization, distribution, and appropriate use of the County Procurement Card for the acquisition of goods and services as provided by the Imperial County Procurement Card Policy.

ETHICS

Imperial County employees shall adhere to the Imperial County Code of Ethics as written in the Employee Handbook and shall perform their duties impartially to assure fair competitive access to the County's procurement process by all responsible suppliers, contractors, and

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providers of services and to foster public confidence in the integrity of the County’s procurement process. If applicable, failure to comply with the Imperial County Code of Ethics may result in disciplinary action.

County employees shall not solicit or accept any fee, compensation, gift, payment of expenses, or promise of compensation in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a requirement, specification, standard, or contract. Employees shall discourage any inappropriate contact or encroachment on one’s official duties by anyone who seeks to influence a procurement decision, and shall conduct their dealings with all suppliers of goods or services in a fair and impartial manner that guards against even the appearance of impropriety.

CONFLICT OF INTEREST:

County employees shall not participate directly or indirectly in a procurement when the employee knows that: (1) the employee or any member of the employee’s immediate family (Immediate family member is defined as a parent; sibling; child by blood, adoption, or marriage; spouse; grandparent or grandchild) has a personal financial interest pertaining to the procurement; (2) a business or organization in which the employee, or any member of the employee’s immediate family, has a personal financial interest pertaining to the procurement; or (3) any other person, business or organization with whom the employee or any member of the employee’s immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

Upon discovery of an actual or potential conflict of interest, an employee shall promptly withdraw from further participation in the transaction involved and notify his/her immediate supervisor and Purchasing of the conflict.

VENDOR ETHICS:

No supplier, provider of services, bidder, offeror, contractor, or subcontractor shall offer any County employee any gift, gratuity, offer of employment, or anything of value in consideration for a preference, waiver, or any manner of influence in a current or future procurement action. Violation of this policy may result in debarment at the discretion of the Board of Supervisors.

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DEBARMENT

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

COMMITTEES

The Purchasing Agent may organize a variety of committees to facilitate the needs of the County for Office Furniture Standards and Junking of surplus property as follows:

- A. Standards – The Purchasing Agent may organize “Standards Committee” as needed to establish standards with respect to the type, design, quality, or brand of a certain article or group of related articles or services purchased by the County. The membership of the Committee shall be the Purchasing Agent who shall be Chairman, the County Executive Officer, and the heads of each County office, department, or institution that is a primary user of the item or group of items for which the committee is appointed. Any member of the committee may act through a representative appointed by him or her.

- B. Junk Committees – The “Junk Committee” is composed of (at least) Purchasing Agent, Auditor-Controller, and the Deputy Director of Facilities (or their agents) to take the responsibility for disposing of surplus County property determined to be of no value or such little value that attempted sale would be futile. A junking memo, to include asset number (if applicable), description, and department (if available), will be prepared and maintained by the Purchasing Department. Any items with an asset number identified by the committee as junk will be processed through a Property Transfer Request (PTR) and sent to the Auditor-Controller to be used for his or her fixed asset controls.

SUNSET DATE

Nothing set

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REFERENCES:

Government Code 25500

Imperial County Code of Ordinance 2.52.010

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