



TOWN OF TAOS PURCHASING POLICY* (FIRST AMENDED)

PURCHASING OFFICE
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I. INTRODUCTION AND POLICY

The basic principle of governmental purchasing and an indispensable element of the American economic system is free and vigorous competition. Free and vigorous competition serves the multiple purposes of securing high quality goods or services while controlling the purchaser's costs and stimulating the economy. As public buyers expending public funds the Governing Body of the Town of Taos fully supports these concepts.

The Town of Taos welcomes the opportunity to do business with interested vendors willing to supply quality goods and services (including construction) at competitive prices, meet deadlines, and become part of a team dedicated to serving the citizens of the Town of Taos.

It is the goal of the Town's Purchasing Office (Purchasing) to obtain quality goods and services at the lowest cost from qualified, responsive, responsible vendors while ensuring that all purchases are made in accordance with local, state and federal laws, regulations, and ordinances; are open, fair, and competitive; and are obtained at the best value maximizing the use of public funds.

This Purchasing Policy was prepared with the sincere hope that it will be helpful to all vendors engaged in selling supplies, materials, equipment and/or services and who would like to do business with the Town of Taos. This Policy is also intended to serve as a guide for Town Officials and employees who participate in the purchasing process.

The Town's Purchasing Office invites all qualified vendors to actively participate in the Town's Procurement processes.

II. LEGAL FRAMEWORK

The Town of Taos adheres to the State of New Mexico Procurement Code (NMSA 1978 Sections 13-1-28 through 13-1-199) which strictly governs the purchasing policies of governmental agencies. Any conflict between the Procurement Code and this policy shall be resolved in favor of the Procurement Code. Purchases involving the expenditure of federal funds must be conducted in accordance with the mandatory applicable federal laws and regulations. Such laws and regulations will supersede the NM State Procurement Code where the Procurement Code is inconsistent with the federal laws and regulations. To the extent any other law, including but not limited to the New Mexico Affordable Housing Act, NMSA 6-27-1 through 6-27-8, contains requirements concerning procurement applicable to the Town of Taos, this Policy shall be interpreted consistently with those requirements, and if it cannot be interpreted consistently with those requirements, the requirements of law will prevail.

For any procurement funded in part or in full by grants from the State of NM , the Federal Government or other funding sources, the solicitation documents and contracts must conform to the terms and requirements of the grant agreement.

No political or other invidious prejudicial consideration governs the award of Town of Taos contracts or orders: rather every purchase is made in the Town's best interest efficiently obtaining high quality goods, construction and services in a timely manner while providing qualified vendors a fair opportunity to compete. Consistent with the Procurement Code, it is the objective of the Town of Taos to procure the necessary supplies, equipment and services at the lowest cost consistent with the quality and timeliness needed to meet departmental requirements and the principle that the taxpayer receives the maximum value for each dollar expended.

III. LOCATION AND OFFICE HOURS

The Town of Taos Purchasing Office is located in Town Hall, Room 202, 400 Camino de la Placita, Taos, NM 87571. The telephone number is 575.751.2025, the fax number is 575.751.2026 and the e-mail address is ttorres@taosgov.com. Office Hours are 8AM to 12 noon and 1 PM to 5PM daily M-F with the exception of legal holidays observed by the Town.

Purchasing WELCOMES vendors at anytime. However, it is recommended that vendors contact Purchasing to schedule an appointment to ensure the highest level of customer service.

IV. PROCUREMENT METHODS

The methodology used for a procurement will be either formal or informal, depending upon the type of service, property or construction being acquired and the amount to be paid. All formal and informal solicitations for goods, services or construction shall include a uniform, detailed scope of work or set of specifications including a time line if applicable, detailing the requirements of the procurement.

State Use Act (NMSA 13-1C-1) For the procurement of services, **before** a solicitation takes place, the Town contacts New Mexico Abilities to determine if New Mexico Abilities can provide the scope of services required and meet all requirements of the Town of Taos pertaining to the solicitation.

A. Informal Procedure

The Town follows an Informal Procurement Procedure as permitted by the Procurement Code in the five situations listed below.

NOTE: INFORMAL SOLICITATIONS ARE NOT POSTED ON THE TOWN'S WEB SITE

(1) **Small Purchases**, used when the Town is procuring construction, tangible goods or services valued at less than \$20,000 or professional services (other than landscape architects and surveyors) valued at less than \$50,000. For landscape architects and surveyor services, the small purchase informal procedure is used for services valued at less than \$10,000. Except for extremely small purchases (\$1000 or less, see below), for all small purchases, every effort shall be made to obtain three (3) quotations for the procurement of the construction, tangible goods or services sought. Each solicitation should describe the scope of work in sufficient detail and any applicable timeline or deadline. It is strongly recommended that the three quotations be obtained from local small businesses when possible. If fewer than three responsible quotes are obtainable in this manner, the purchase may be made at the best obtainable price (and/or in the best interests of the Town) **and** a memo shall be written to the Procurement Officer describing the steps taken to obtain the quotes and determine the qualifications of the vendors and price. Such memo shall be retained as part of the procurement file. Award may be made only to the responsible offeror submitting the lowest responsive offer, except that for professional services, factors such as experience, references, and qualifications may carry weight equal to or greater than price.

a.) \$0.00 to \$1000, Extremely Small Purchases

i. Procurement Card –

This program is designed to make it easier and more cost effective for the Town of Taos to make small, **one time** purchases of tangible goods or materials for the Town. Purchase amount cannot exceed one thousand dollars (\$1000) and cannot be used for capital expenditures, construction or services. The Town employee making the purchase should have sufficient knowledge or make reasonable efforts to assure that the goods are being purchased at the lowest reasonably available price. The program streamlines the

procurement process by replacing the need for petty cash, low-value approvals and provides for quicker delivery of tangible goods and payment for said tangible goods.

ii. Other Extremely Small Purchases

Services, construction or items of tangible personal property having a value not exceeding \$1000 may be procured by issuing a direct purchase order to a contractor based upon the best obtainable price (and/or in the best interests of the Town).

b.) \$1000.01 - \$5000

Oral or written quotes for the purchase of construction, goods or services. All quotes should be based on the description of the scope of work provided by the Town, and must be written down and placed in the procurement file.

c.) \$5000.01-10,000.00

Written quotations on company letterhead based on the description of the scope of work provided by the Town. The written quotations must be placed in the procurement file.

d.) \$10,000.01 to 19,999.99, construction, tangible goods or services other than professional services, requires competitive written bids or proposals responsive to an informal, written IFB or RFP. Sealed bids/proposals for construction, tangible goods or any services MUST be coordinated through the Procurement Officer using an informal, written Invitation for Bid (IFB) or Request for Proposals (RFP).

e.) **Professional Services up to \$50,000 (or Landscape Architect or Surveyor Services up to \$10,000)** - The Town shall obtain reasonable number of responses for the procurement of professional services based on the same scope of work and taking into consideration such factors as the respondents' qualifications, experience, references, and

price. If fewer than three qualified responses are obtainable using the procedure set forth above, the procurement may be made **and** a memo shall be written to the Procurement Officer describing the steps taken to obtain the responses. Such memo shall be retained as part of the procurement file.

(2) **Sole Source Purchase** requires a determination issued by the Purchasing Officer that there is only one source for the required goods, construction or services. Sole source purchases are not encouraged by Purchasing because pricing and terms and conditions are difficult or impossible to negotiate. No open market exists to validate that pricing and terms and conditions are reasonable. (NMSA 13-1-126)

(3) **Emergency Procurements** require a determination issued by the Procurement Officer. An emergency situation exists when the public health, welfare, safety or property is threatened as may arise from floods, fires, epidemics, riots, acts of terrorism, equipment failure and similar events, requiring procurement under emergency conditions; providing that emergency procurements shall be made with such competition as is practicable under the circumstances. Purchase or lease of heavy road equipment is not included. (NMSA 13-1-127 A-B-C)

(4). **Existing Contracts** - Regardless of the type of goods and/or services being sought, the Procurement Officer may make purchases using contracts issued by the State of New Mexico state purchasing agent or the federal General Services Administration (GSA) in the procurement process. (NMSA 13-1-129)

(5) **Cooperative Procurement** – The Town may either participate in, sponsor or administer a cooperative procurement agreement for the procurement of any services, construction or items of tangible personal property with any other state agency, local public body or external procurement unit in accordance with an agreement entered into and approved by the governing authority as per NMSA 13-1-135.

B. Formal Procedure

1. Invitation for Bids (IFB) – The formal bid procedure is followed when the services, construction or items of tangible personal property to be purchased are valued at twenty thousand dollars (\$20,000) or more. This method requires a formal advertisement, sealed bid, public opening and in many cases proof of insurance, licensing, contractor registration, bid bonds, payment and performance bonding. All requirements and specifications for bids must be set forth in the IFB and/or accompanying bid documents. The Town is statutorily required to select the lowest responsive bid (that is the lowest bid meeting all requirements and specifications) submitted by a responsible bidder.(NMSA 13-1-108.)

2. Requests for Proposals (RFP) – The formal proposal procedure is followed when the Town is soliciting professional services with a value exceeding fifty thousand dollars (\$50,000.00) excluding applicable state and local gross receipt taxes, except for the services of landscape architects or surveyors which require the formal proposal process when the professional services being procured have a value exceeding ten thousand dollars (\$10,000) excluding applicable state and local gross receipt taxes. These methods require formal advertisement, a sealed proposal and in many cases, proof of insurance and bonding. All evaluation factors to be used in selecting a proposal must be stated in the RFP. The Town will select the responsible respondent whose proposal is most advantageous to the Town, using the evaluation factors stated in the RFP.(NMSA 13-1-117.) **For the formal procurement of the services of architects, engineers, landscape architects or surveyors (“qualifications based proposals”), price cannot be a factor in the selection but may be negotiated after the selection. (NMSA 13-1-112.C, 13-120.)**

VII. OBTAINING INFORMATION FOR FORMAL BIDS AND PROPOSALS

Specific information pertaining to our invitations for bids (IFBs), requests for proposals (RFPs) and awards is available publicly and upon request. The Purchasing Office works diligently to ensure vendors have equal access to this information. We accomplish this by:

(1) Availability on Website and at Purchasing Office.

We post information at our website www.taosgov.com/finance/solicitation. Vendors may download an invitation for bids (IFB) and request for proposals (RFP) directly from this website. The IFB and RFP information can be obtained at the Purchasing Office. Some bid packets may require payment of a deposit related to the actual, direct cost of furnishing copies. If bidding documents require shipping, the Respondent must prepay the cost of shipping with certified funds or provide a Fed-X or UPS account number. Costs associated with shipping are not refundable. The deposit shall be refunded if the documents for bid are returned in usable condition within the time limits specified in the documents for bid. (13-1-104 D NMSA 1978)

To download IFBs and RFPs, go to our website and select the bid or proposal that interests you and download it. These documents are in PDF format and require a PDF reader such as Acrobat Reader, which you may download free.

At times, only portions of a proposal/bid may be posted on our Web site due to technical or document size constraints, in which case, you may obtain a copy from our Purchasing Office or Agent.

(2) Legal Advertising

The Purchasing Office advertises formal IFB's valued at greater than \$20,000 for construction, tangible goods and services, and RFP's expected to cost more than \$50,000

for professional services and services of landscape architects or surveyors exceeding ten thousand dollars (\$10,000) at least ten calendar days before the date set for opening of the bids or proposals in the legal section of a newspaper of general circulation in the area in which the Town of Taos is located, or may use any other legally sufficient notice procedure.

(3) Interested persons may also obtain copies of open IFB's and RFP's by visiting our offices during normal business hours.

To be notified of a particular solicitation, a person must send his or her contact information to the Procurement Officer at the Purchasing Office and he or she will be contacted when the IFB or RFP solicitation is advertised.

Importance of Submitting Timely and Complete Bids and Proposals

All bids and proposals submitted pursuant to formal IFBs or RFPs must be in sealed containers and received by the Purchasing Office no later than the deadline time and date specified in the IFB or RFP (or an amendment to either). To be considered responsive, a bid or proposal must meet all material requirements and specifications set forth in the IFB or RFP. **Failure to submit a timely and complete bid or proposal will result in rejection of the bid or proposal.** The Town may waive technical irregularities in the form of a bid or proposal that do not alter the price, quality or quantity of the services, construction or items of personal property bid or offered.(NMSA 13-1-132.)

VIII. RECEIPT AND OPENING OF BIDS AND PROPOSALS-BIDDERS' RESPONSIBILITY (FORMAL PROCEDURES)

It is the bidder's responsibility to ensure timely delivery and that any bids submitted are sealed and identifiable prior to delivery to the Town's Purchasing Office. Either an envelope or a box may be used.

If a bid is hand-delivered, it is the bidder's sole responsibility to ensure that a bid is time stamped and physically deposited with the Procurement Officer or her Agent prior to the time and the date specified on the cover page of the IFB or RFP.

The official "Bid Due Time" for all bids and proposals is Mountain Standard Time or Mountain Daylight Time, as applicable.

Bids received via U.S. Mail or other express mail services will be time-stamped by the Purchasing Office.

The sealed envelope or container must bear the official Bid or Proposal number, Title of Bid and the official bid due time and date clearly marked on the cover of the Bid Document.

IX. BID AND PROPOSAL OPENING; POST AWARD.

Bid opening times are listed on the cover page of the IFB. The bidders and the public are invited, but not required, to attend the formal opening of bids. Prices are read aloud at the bid opening. No decision is made relative to an award of a contract or a purchase order at the bid opening.

Proposals submitted in response to an RFP are not publicly opened and no pricing or other information will be revealed until after the evaluation has been completed and an award has been made.

Post Award

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After analysis and award, all successful bids and tabulation sheets are kept by the Purchasing Office. After contract award, the documents are available for inspection, subject to the Inspection of Public Records Act (see below). Bid tabs are available on the web page shortly after bid opening, or you may make an appointment with the Purchasing Office to review bid results.

Bids or RFPs received at any time AFTER the date/time deadline set forth on the cover page will NOT be considered and will be returned unopened.

X. PREVAILING WAGES (Public Works Projects)

Every contract or project in excess of sixty thousand dollars (\$60,000.00) that the Town of Taos is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, which shall be based upon the wages that will be determined by the director of the labor relations division of the department of workforce solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the state or locality, and every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates not less than those stated in the minimum wage rates issued for the project. The specific wages and fringe benefits required to be paid to these categories of workers will be set forth in the invitation for bids document. (NMSA13-4-11)

Federally Funded Construction Projects

If a public construction project is funded or assisted by the federal government and the project or contract is over \$2000, pursuant to the Davis-Bacon Act, federal prevailing wage and fringe benefits must be paid to mechanics and laborers. See www.dol.gov/compliance laws.

XI. REGISTRATION OF CONSTRUCTION CONTRACTORS AND SUBCONTRACTORS PURSUANT TO PUBLIC WORKS MINIMUM WAGE ACT.

In order to submit a bid valued at more than sixty thousand dollars (\$60,000) in order to respond to a request for proposals or to be considered for award of any portion of a public works project greater than sixty thousand dollars (\$60,000) for a public works project that is subject to the Public Works Minimum Wage Act (13-4-10 NMSA 1978) a contractor, serving as a prime contractor or not, shall be registered with the Labor Relations Division of the New Mexico Department of Workforce Solutions pursuant to 13-4-13.1 NMSA 1978. The registration number and a copy of the official “Certificate of Public Works Registration” are required when submitting either a bid or a proposal valued at over \$60,000 on a public works project. **Failure of a bidder whose bid exceeds \$60,000 to obtain a Public Works Minimum Wage Act registration from the Labor Relations Division of the Department of Workforce Solutions will result in mandatory rejection of the bid.** (NMSA13-4-13.1A)

XII. AWARD POLICY – CRITERIA FOR AWARD

With respect to an Invitation for Bids, the award will be made to the lowest, responsive, responsible, qualified bidder that meets specifications and other requirements of the solicitation. (See section NMSA 13-1-108)

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With respect to Request for Proposals, the award shall be made to the responsible respondent whose proposal is most advantageous to the Town taking into consideration the evaluation factors set forth in the request for proposals (See section NMSA 13-1-117). Qualifications-based proposals, applicable to engineers, architects, surveyors and landscape architects must be based on respondents' qualifications to perform the required work and may not be based on price. (NMSA 13-1-120.B.)

The Purchasing Office will notify the successful bidder(s) in writing. It is the responsibility of the bidder to inquire about the award of INFORMAL bids or proposals.

XIII. ENTERING INTO A WRITTEN CONTRACT

Following award and before work commences or goods are delivered, the Town and the Contractor must enter into a written contract signed by both parties, or for certain small purchases, a purchase order may be issued by the Town and accepted by the contractor instead of a formal written contract. Contracts shall be based on the Town's contract templates except where special circumstances justify using a different form. All contracts must state that bribes, gratuities and kickbacks violate the criminal laws of New Mexico.

All contracts shall specify, either in the body or an attachment the detailed scope of work and the basis on which payment is to be calculated (hourly rate, price per unit, price per job, etc.). All contracts shall also state that performance of the Town's obligation is contingent upon sufficient appropriations, availability of funds and legal authority. In addition, all contracts shall contain other standard clauses including but not limited to a requirement that records be retained for a minimum of three years (or longer if required by funding agencies or law); a non-discrimination clause; and a statement that the contractor has no conflict of interest with respect to the contract or its performance.

Before the Town executes any contract, the contractor must provide a completed and signed campaign contribution disclosure form. (NMSA 13-1-191.1)

No services or construction or furnishing of goods is permitted either before a written contract is signed by the Town and the Contractor or after the contract terminates. Working without a contract may result in non-payment for such work.

For purchases under \$1000 a purchase order (PO) signed by the Town is sufficient to constitute a contract.

XIV. PURCHASE ORDERS (POs)

POs are issued solely by the Purchasing Office. An official purchase order with an authorized signature and purchase order number is the only method for purchase of supplies, materials, equipment and/or services obligating the Town of Taos. A PO number should always be obtained by the vendor prior to conducting business with the Town. Vendors are cautioned not to sell materials, equipment and/or services without an official purchase order or purchase order number. Failure to obtain a PO number prior to the delivery of goods or rendering of services could result in non-payment. Vendors should also identify the department and request the identity and departmental phone number of the person(s) purchasing for the Town. Questionable purchases should be referred to the Office of the Purchasing Agent immediately at 575.751.2025.

XV. W-9 FORMS

Prior to issuance of a PO, vendors conducting business with the Town must complete a W-9 Form (Request for Taxpayer Identification Number and Certification)

XVI. CONTRACT MODIFICATIONS:

AMENDMENT- after a written contract is entered into, it may be modified only by a written instrument signed by the parties.

CONSTRUCTION CONTRACTS

CHANGE ORDER- a form of contract amendment for construction contracts that usually adds or deletes tasks or quantities of work and/or addresses changes in work that were not foreseen. Change orders are limited to the amount of money needed to effectuate the changes required or requested by the Town.

A change order shall describe changes in the work, time and/or compensation, and may require, as appropriate, attachments of revised contract documents describing the change(s) and a full accounting of the adjustment to the contract sum and the contract time.

Field Order-is a directive issued by the project manager to the contractor for immediate action to be taken, the field order shall include cost and quantities and be made part of a change order.

PROCEDURE AND COST OR PRICING DATA FOR CHANGE ORDERS OR CONTRACT MODIFICATIONS. (13-1-140 through 144 NMSA 1978)

- A. Any change order, or other amendment to a contract that has previously been approved by the Town Council, may be approved by the Town Manager or the Mayor provided the amount of the change order or contract amendment is not greater than \$25,000.00, and that sufficient monies are appropriated in the budget to accommodate the change order or amendment.
- B. Any change order or amendment greater than \$25,000 will require the specific approval of the Town Council. If it is determined that an emergency or urgent

- situation exists such that delays will cause damage, increases in cost, or loss of construction time, and it is in the best interest of the Town of Taos, a determination may be issued by the Purchasing Officer with detailed documentation which supports the determination and signed by the Town Manager/Mayor and the Project Manager/Department Head that the contract modification or change order over \$25,000 may be issued, subject to Town Council ratification at the earliest date possible after the issuance.
- C. For construction contracts, the contractor shall submit cost or pricing data prior to /the execution of any change order or contract modification regardless of whether or not the pricing data was required in connection with the initial award of the contract if the change order or modification involves aggregate increases or decreases expected to exceed \$25,000.
 - D. Any change order or amendment which will exceed the amount in the appropriated budget will require the specific approval of the Town Council, regardless of the amount of the change order or amendment.
 - E. Any change order or contract amendment, regardless of dollar amount, that brings the total contract amount, including the amount of the change order or amendment, to over \$50,000 requires Council approval.
 - F. Any change order or contract amendment, regardless of the dollar amount, that brings the total amount of change orders or amendments to over \$50,000 requires Council approval.
 - G. Notwithstanding any other provision of this policy, where the Council has previously approved in a budget a specified sum for inclusion in a contract or contract amendment with a specified, named contractor, a contract with that same contractor for no more than the budgeted amount need not be separately submitted to Council for approval.

XVII. INSURANCE

The Town of Taos may require vendors to obtain certain amounts and types of insurance coverage for goods, construction or services. Insurance coverage such as worker's

compensation, auto liability, general liability, and in some cases, builders risk or professional liability may also be required prior to conducting business with the Town. For further information regarding insurance requirements, please contact the Purchasing Department.

XVIII. PAYMENT PROCEDURE

After delivery of goods, construction or services ordered, the vendor must prepare and submit an invoice to the requesting department specified on the PO. The Town's payment terms are Net 15 working days. Any question should be directed to the Town of Taos, Accounts Payable, 400 Camino de la Placita, Taos, NM 87571 575.751.2028.

No payment may be made on any purchase of goods, construction or services unless the goods, construction or services have been received and meet specifications and requirements. (NMSA 13-1-158.A.) (Prepayment is not permitted except for types of goods and services excluded from the Procurement Code pursuant to NMSA 13-1-98.)

When goods, construction or services are received by the Town and an invoice for them is also received, the Town will inspect the goods, construction or services in light of the relevant requirements and specifications. Within 15 working days after receiving an invoice for goods, construction or services received, if the goods, services or construction are found acceptable and the invoice correct, the Town shall pay the invoice. If the goods, construction or services are found unacceptable the Town shall, within 15 working days of receiving an invoice for them, issue a written notice of partial or complete rejection with letter of exception explaining what action the contractor must take to cure the deficiencies. The Town shall pay the vendor within 15 working days of receiving adequate, approved, properly invoiced goods, construction or service. The Town may extend payment beyond the 15 working day period provided herein if unforeseen circumstances prevent timely payment, in which case, within 15 working days after receiving an invoice for goods, construction or services received, the Town shall provide

a written explanation to the contractor, stating also when payment can be expected. **A provision to the effect of this paragraph shall be included in formal IFBs and RFPs and in contracts awarded pursuant to solicitations by the Town.** (See NMSA 13-1-158.)

For projects lasting more than a month, the contractor shall invoice the Town monthly or at such other intervals as the parties agree.

**PURCHASE ORDER NUMBER MUST APPEAR ON ALL INVOICES AND ALL
CORRESPONDENCE**

**XIX. TOWN'S RIGHT TO CANCEL A
PROCUREMENT AND REJECT BIDS OR PROPOSALS**

The Town has the right under the Procurement Code to cancel any invitation for bids (IFB) or request for proposals (RFP), or to reject any or all bids or proposals, when it is in the best interest of the Town to do so. In such event, the Procurement Officer must issue a written determination stating the reasons for the cancellation or rejection and the written determination must become part of the procurement file. (NMSA 13-1-131.) **If, prior to execution of a valid contract, the Town determines that a solicitation or a proposed award is in violation of law, the solicitation or proposed award shall be cancelled. (NMSA 13-1-181.)**

XX. PROTESTS

Any Bidder or Respondent who is aggrieved in connection with a solicitation or award of a contract may file a written protest with the Purchasing Office, Room 202, 400 Camino de la Placita, Taos, NM 87571 outlining the reason and merit for protest. The protest shall be submitted in writing within fifteen calendar days after knowledge of the facts or occurrences giving rise to the protest. (NMSA 13-1-172)

This is a formal process. The protestor must submit with the written protest any pertinent documentation and a description of relevant facts to support the claim. Once the protest is received an Acknowledgment of Receipt letter will be sent to the protestor. The Procurement Officer will then collect data and conduct an investigation. As part of the investigation the Procurement Officer may request additional information from the protestor or other sources. A protestor's failure to respond in a timely and adequate manner to the Procurement Officer's request for additional information may result in denial of the protest. Based on the investigation a determination will be made and a letter sent to the protestor informing him or her of the reasons for the determination. The determination shall inform the protestor of the reasons for the determination and of the protestor's right to judicial review under NMSA 13-1-183. (NMSA 13-1-175)

XXI. INSPECTION OF PUBLIC DOCUMENTS:

Pursuant to the Inspection of Public Records Act, NMSA14-2-1, everyone has the right to inspect Town of Taos public records including those records that reside with the Purchasing Office. Requests should be made in writing to the Town Clerk, 400 Camino de la Placita, Taos, NM 87571 using the Town's inspection of public records request form available on the Town's web site, www.taosgov.com or by calling 575.751.2004. Bids are not available for inspection until public bid opening. Proposals are not available for inspection until after contract award. (NMSA 13-1-116) Other restrictions on availability of documents may apply pursuant to the Inspection of Public Records Act.

XXII. APPROVAL AND SIGNATURE AUTHORITY (NMSA 13-1-100)

The Governing Body (Town Council) must approve any purchase over \$50,000.00 in value exclusive of Gross Receipts Tax. (See NMSA 13-1-100.) The Mayor has authority to approve and sign contract documents for any purchase of \$50,000.00 or less.

(However, as stated in Part XVI above, the Council must approve change orders or amendments valued at more than \$25,000.) The Town Manager has the authority to approve and sign contract documents for any purchase of \$25,000.00 or less. The Mayor has authority to sign any properly authorized contract. The Town Manager has authority to sign any properly authorized contract of \$25,000.00 or less. The Town Manager has the authority to delegate to Division Directors authority to sign any properly authorized contract of \$5,000 or less.

XXIII. CONFLICTS OF INTEREST

- A. GENERAL PRINCIPALS: A Town employee or elected official shall treat his or her Town government position as a public trust and shall use the powers and resources of public office only to advance the public interest, and not to obtain personal benefits, or pursue private interests incompatible with the public interest. (See NMSA 10-16-3. A.) Town employees and elected officials shall fully disclose any actual or apparent conflict of interest and shall recuse themselves from any Town action or decision-making process that actually or potentially affects them or their immediate family members.
- B. FINANCIAL INTEREST. When a Town employee or elected Town official knows or should know that he or she or a member of his or her immediate family has a financial interest in a company or other business seeking a contract with the Town, that employee or official shall not participate directly or indirectly in any of the Town's procurement-related actions regarding such business (NMSA 13-1-190). For purposes of this provision, "immediate family member" means a spouse, child, parent, brother or sister. (NMSA 13-1-63.)
- C. SIMULTANEOUS EMPLOYMENT. When a Town employee or elected Town official is participating directly or indirectly in the procurement process, he or she shall not also contract with the Town or be or become an employee of any person or business contracting with the Town. (NMSA 13-1-193).

D. WAIVERS. The Town Council, at a duly noticed open meeting, may grant a waiver from the prohibitions stated in Paragraphs B and C above upon making a determination that (1) the financial interest of the employee or his or her immediate family member, or the employee or official's contemporaneous employment by a contracting entity has been disclosed; (2) the employee will be able to perform his or her Town functions without actual or apparent bias or favoritism; and (3) the employee participation is in the best interests of the Town. (NMSA 13-1-194.) Such waivers should also be used in cases of possible or apparent conflicts of interest such as those referred to in Paragraphs B and C above, as well as in cases of actual conflict of interest.

E. GRATUITIES. No Town employee or elected official shall request or receive anything of value that is conditioned upon or given in exchange for the employee's or official's performance of an official act. (See NMSA 13-1-191, 10-16-3.D.)

F. USE OF CONFIDENTIAL INFORMATION. No Town employee or elected official shall use confidential information gained as a result of his or her position with the Town for actual or anticipated personal gain or for the actual or anticipated personal gain of any other person. (NMSA 3-10-4.B, 13-1-195.)

G. ACQUIRING NEW FINANCIAL INTERESTS. No Town employee or elected official shall acquire a financial interest in any business venture or business property when the employee or official believes or has reason to believe that such new financial interest will be directly affected by his or her official act. (NMSA 3-10-4.)

H. SPECIAL CONFLICTS PROVISIONS REQUIRED BY GRANT AGREEMENTS. The Town and its employees and elected officials shall abide by any special conflict of interest requirements of grant agreements to which the Town is a party. For example, Department of Finance and Administration (DFA) grant agreements may include a requirement that all construction and other contracts funded by the DFA grant include a provision that no Town employee or member of the governing body who performs any functions in connection with the DFA-funded project shall, during his or her tenure or for a year thereafter, have any interest, direct or indirect, in any contract or subcontract for work to be performed with the grant money or under the contract.

Cross-Reference: This Policy incorporates by reference the Town’s special procurement policy for Community Development Block Grant (CDBG) projects set forth in Town of Taos Resolution 09-21 adopted by the Town Council on April 28, 2009. Please refer to that policy for procurement under CDBG grants.

PURCHASING POLICY APPROVAL

This Town of Taos Purchasing Policy was originally adopted by the Town Council of the Town of Taos at its Special Meeting on April 29, 2010 and was amended by the Town Council at its Regular Meeting on June 22, 2010.

Darren M. Cordova, Mayor

ATTEST: _____

Renee Lucero, Town Clerk