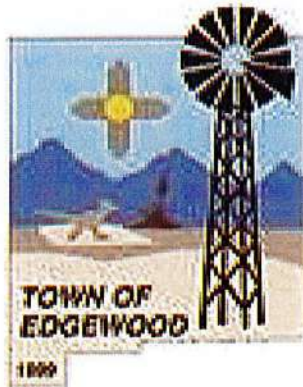


Town of Edgewood

Procurement Ordinance



ORDINANCE NO. 2022-01

**AN ORDINANCE ADOPTING PROCUREMENT PROCEDURES AND SIGNATURE
AUTHORITY FOR THE TOWN OF EDGEWOOD, NEW MEXICO
SUPERCEDING ORDINANCE 2018-005**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF EDGEWOOD,
NEW MEXICO, AS FOLLOWS:**

SECTION 1. TITLE

This ordinance may be cited as the "Procurement Ordinance".

SECTION 2. LEGAL FRAMEWORK

The Town of Edgewood (hereinafter, the "Town") 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 Ordinance 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. The Town also adheres to the procurement regulations of the Governmental Conduct Act (NMSA 1978 Chapter 10, Article 16) and the New Mexico Administrative Code. To the extent any other law contains requirements concerning procurement applicable to The Town of Edgewood, 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 fully by grants from the State of New Mexico, 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 considerations governs the award of Town 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 Edgewood 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.

On or before January 1 of each year, and every time a chief procurement officer is hired, the Town of Edgewood shall provide to the State Purchasing Agent the name of the Town's Procurement Officer. It is the responsibility of the Procurement Officer to administer, make determinations and approve all procurement for the Town of Edgewood. (NMSA 1978 13-1-18.1 and 13-1-95.2). Any procurement not authorized and approved by the Procurement Officer shall be considered a violation of this policy.

It is unlawful for any employee or official of the Town of Edgewood, to participate directly or indirectly in Town procurement when the employee knows that the employee or any member of the employee's immediate family (spouse, parents, children or siblings) has a financial interest in the business seeking or obtaining a contract. In the event that a Town employee or official becomes aware of a conflict described in this paragraph, such employee or official shall immediately notify their supervisor and the Town's legal counsel.

Persons knowingly and/or willfully violating the State Procurement Code, State Statutes, or this policy may be subjected to a fourth degree felony if the transaction involves more than \$50,000, a misdemeanor if the transaction is \$50,000 or less as per New Mexico Statutes. In addition, employees violating this policy, State Statutes, or the State Procurement Code may be subject to disciplinary action up to and including termination of employment by the Town.

SECTION 3. POLICY

The application of the principles of integrity, transparency, accountability, fairness, and efficiency to all decision making on public investments and purchases will prevent corruption and maximize the economic, financial, social, environmental and public benefits of public procurement. As public buyers, representatives of the taxpaying people of Edgewood, expending public funds, the Town of Edgewood fully supports these principles.

The Town of Edgewood welcomes the opportunity to do business with interested vendors willing to supply quality goods and services at competitive prices, meet deadlines, and become an integral partner dedicated to serving the citizens of the Town of Edgewood. Whenever possible, it is the preference of the Town of Edgewood to procure goods and services locally. The overall procurement objective of the Town of Edgewood is to obtain quality goods and services at the lowest cost from qualified, responsive, and 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 Edgewood. This Policy is also intended to serve as a guide for Town Officials and employees who participate in the procurement process on behalf of the Town of Edgewood.

SECTION 4. PURCHASING POLICY - PROCUREMENT METHODS

All formal and informal solicitations for goods, services or construction shall include a uniform, detailed scope of work or set of specifications including a timeline if applicable, detailing the requirements of the procurement. For Town procurement, a purchase order must be generated and (when applicable) issued to the vendor in which the construction, tangible goods or services are being provided.

A. Informal Procurement Procedure

The Town follows an Informal Procurement Procedure as permitted by the Procurement Code in the following situations listed below. The Procurement Officer has the authority to recommend any procurement of \$20,000.00 or less.

(1) Small Purchases

Small purchases, used when the Town is procuring construction, tangible goods, or services valued at less than \$60,000 or professional services (other than landscape architects and surveyors) valued at less than \$60,000. For landscape architects and surveyor services, the small purchase informal procedure is used for services valued at less than \$10,000. For all small purchases, except for extremely small purchases (\$3,000 or less, see below), every effort shall be made to obtain three (3) quotations for the procurement of 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 (3) 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 Town 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. Awards for construction, tangible goods, or services shall be made only to the lowest responsible bidder and awards for professional services shall be made to the responsible offeror or offerors whose proposal is most advantageous to the Town of Edgewood.

a.) Up to \$3,000 - Extremely Small Purchases

Services, construction, or items of tangible personal property a value not exceeding \$3,000 may be procured by notice being given to the Procurement Officer prior to the purchase being made and the receipt evidencing the purchase being given to the Procurement Officer as soon as practicable and purchase from a vendor being based upon the best obtainable price (and/or in the best interests of the Town). 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.

b.) \$3,000.01 - \$20,000

The Town shall make a reasonable effort to obtain three (3) 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 internal notes section on the requisition process. If three (3) written quotes cannot be obtained, the Town Procurement Officer shall document the reasons and include such document in the procurement file.

The CPO shall report monthly to the Commission with the financial report the procurements awarded for the previous month, including CES and Statewide contract awards.

c.) \$20,000.01 - \$60,000

Insofar as it is practical for small purchases of services, construction or items of tangible personal property having a value exceeding twenty thousand dollars but not exceeding sixty thousand dollars, a minimum of three (3) written quotes on company letterhead must be obtained based on the description of the scope of work provided by the Town. The written quotations must be attached to the purchase order and invoice for inclusion in the voucher.

d.) Professional Services up to \$60,000 (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 (3) qualified responses are obtainable using the procurement set forth above, the procurement may be made and a memo shall be written to the Town Procurement Officer describing the steps taken to obtain the responses. Such memo shall be retained as part of the procurement file.

B. Formal Procurement Procedure

(1) All formal procurements greater than \$20,000 shall be authorized by the Town of Edgewood Governing Body prior to obtaining quotes or issuing any request or invitation to bid. Once the Town of Edgewood governing body has authorized the procurement, the Procurement Officer shall be responsible for the procurement process. All awards and contracts must be approved by the Governing Body prior to execution.

(2) 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 sixty thousand dollars (\$60,000) 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 1978 Section 13-1-108)

(3) Requests for Proposals (RFP) – The formal proposal procedure is followed when the Town is soliciting professional services with a value exceeding sixty thousand dollars (\$60,000) excluding applicable state and local gross receipts 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 1978 Section 13-1-117) For the formal procurement of professional services ("qualifications based proposals"), price shall be determined by formal negotiations related to the scope of work. (NMSA 1978 Section 13-1-112.C, 13-1-120.)

(4) Obtaining Information for Formal Bids and Proposals- Specific information pertaining to our requests for information (RFIs), invitations for bids (IFBs), requests for proposals (RFPs) and awards is available publicly and upon request. The Town works diligently to ensure vendors have equal access to this information. This information is available on the Town website and at Town Hall. The Town accomplishes this by:

a.) Availability on Town Website and at Town Hall

The information is posted on our website <http://www.townofedgewood.org/bids.htm>. Vendors may download RFIs, IFBs, and RFPs directly from this website. The RFI, IFB, and RFP information can be obtained at the front desk of Town Hall. 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 bids are returned in a usable condition within the time limits specified in the documents for bid. (NMSA 1978 Section 13-1-104 D)

To download an RFI, IFB or RFP, go to our website, select the bid or proposal that interests you, and download it.

At times, only portions of a proposal/bid may be posted on our website due to technical or document size constraints, in which case, a copy may be obtained at Town Hall.

b.) You may obtain copies of open RFIs, IFBs, and RFPs by visiting our offices during normal business hours. If you wish to be notified of a particular solicitation please send your information to the Procurement Officer and you will be contacted when the RFI, IFB, or RFP solicitation is advertised.

(5) Legal Advertising

The Town advertises formal IFBs valued at greater than \$60,000 for construction, tangible goods and services, and RFPs expected to cost more than \$60,000 for professional services and services of landscape architects or surveyors exceeding \$10,000 at least ten (10) 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 Edgewood is located, or may use any other legally sufficient notice procedure.

(6) Selection Committee

1. After the governing body authorizes issuance of an RFP, the Mayor, Town Manager, or designee will then formulate recommendations for Commission approval regarding the appointment of the Selection Committee.

2. The Selection Committee will be composed of at least 5 members.
3. The 5 members will consist of (2) two members of the Governing Body (2) two members of staff and (1) one member at large.
4. The member at large can be a member of an established Town Committee, a representative of the Chamber of Commerce, or another appropriate member of the community. This individual normally shall, but need not in all cases, be a resident of the municipality.
5. The Mayor, Town Manager, or designee will recommend to the Commission the appointment of the Selection Committee.
6. Committee members will be contacted regarding their appointment and availability to review RFP.
7. Once Proposals are received the Clerk/Treasurer will distribute copies of the proposals to each member of the Selection Committee with a proposed review calendar and any other pertinent material/information.
8. The Committee will review the Proposals. Each member is to rate and rank the proposals before meeting with the Committee. The Committee will then meet and discuss each proposal and reach a consensus on the rating and ranking that will be submitted to the Governing Body for recommendation. The Committee will determine if a need exists to interview top ranked offerors prior to submitting a recommendation to the Governing Body.
9. If interviews are to be conducted, the Committee will determine a time and place for the interviews and notify the offerors to be interviewed.
10. The Committee will return all material/information, such as Proposals and rating and ranking sheets, to the Clerk/Treasurer and provide its recommendations to the Governing Body.
11. The Governing Body will duly consider the recommendations of the Selection Committee during a meeting of said body held in accordance with the Open Meetings Act.

(6) Submittal of Bids and Proposals

All bids and proposals submitted pursuant to formal IFB or RFP must be in sealed containers and received by the Town no later than the deadline time and date specified in the IFB or RFP (or an amendment to either). It is the bidders' responsibility to ensure timely delivery and that any bids submitted are sealed and identifiable prior to delivery to the Town. To be considered responsive, a bid or proposal must meet all material requirements and specifications set forth in the IFB or RFP. The sealed bid may be placed in either an envelope or a box and 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. 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 Town prior to the date and time specified on the cover page of the IFB or RFP. Bids received via U.S. Mail

or other express mail services will be time stamped by the Town as they are received. The official "Bid Due Time" for all bids and proposals is Mountain Standard Time or Mountain Daylight time, as applicable. 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 1978 Section 13-1-132)

(7) 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 Town must issue a written determination stating the reasons for the cancellation or rejection and the written determination must become a part of the procurement file. (NMSA 1978 Section 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 proposal shall be cancelled. (NMSA 1978 Section 13-1-181.)

(8) Bid and Proposal Opening

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 bid opening. Prices are read aloud at the bid opening. No decision is made relative to an award of a contract or 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 and approved by the Governing Body.

(9) Award Policy-Criteria for Award

With respect to an IFB, the award will be made to the lowest, responsive, responsible, qualified bidder that meets the specifications and other requirements of the solicitation. (NMSA 1978 Section 13-1-108) The Procurement Officer shall make the final recommendation for the award. (NMSA 1978 Section 13-1-95.2) All awards and contracts must be approved by the Governing Body prior to execution.

With respect to RFP, 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 NMSA 1978 Section 13-1-117). The Procurement Officer shall make the final recommendation for the award. (See NMSA 1978 Section 13-1-95.2) In the case of qualifications-based proposals, which include but are not limited to engineers, architects, surveyors and landscape architects, price shall be determined by formal negotiations related to scope of work. (NMSA 1978 Section 13-1-112C)

Once the recommendation for final award has been determined, the Procurement Officer shall notify the governing body at the next meeting for award.

The Town 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.

(10) Post Award

After analysis and award, all successful bids and tabulation sheets are kept by the Clerk-Treasurer. After an 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 Town Clerk-Treasurer to review bid results.

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

(11) 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 Town Clerk-Treasurer, P.O. Box 3610, Edgewood, NM 87015 outlining the reason and merit for protest. The protest shall be submitted in writing fifteen (15) calendar days after knowledge of the facts or occurrences giving rise to the protest. (NMSA 1978 Section 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 Acknowledgement of Receipt letter will be sent to the protestor. The Clerk-Treasurer will then collect data and conduct an investigation. As part of the investigation the Clerk-Treasurer may request additional information from the protestor or other sources. A protestor's failure to respond in a timely and adequate manner to the Clerk-Treasurer's request for additional information may result in denial of the protest. Based on the investigation a determination will be made and 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 1978 Section 13-1-175)

C. Sole Source Purchases (NMSA 1978 Section 13-1-126)

Sole Source Purchases require a written determination issued by the Procurement Officer with advice from the Town's legal counsel if needed, that there is only one source for the required goods, construction, or services. Before any determination will be issued, the department requesting the determination must submit a justification form to the Procurement Officer for review. Sole source purchases are not encouraged by the Town of Edgewood because pricing and terms and conditions are difficult or impossible to negotiate. No open market exists to validate that pricing and conditions are reasonable. At least thirty (30) days before a sole source contract is awarded, the Town's Procurement Officer or designee shall post notice of the intent to award a sole source contract on the Town's web site as well as the State's Sunshine Portal. The notice shall identify at a minimum: (1) the parties to the proposed contract; (2) the nature and quantity of the service, construction or item of tangible personal property being contracted for; and (3) the contract amount.

Any qualified potential contractor who was not awarded a sole source contract may file a written protest with the Town Clerk-Treasurer, P.O. Box 3610, Edgewood, NM 87015 outlining the reason and merit for

protest. The protest shall be submitted in writing within fifteen (15) calendar days of the notice of intent to award a contract being posted. Any Sole Source Purchase will be published in accordance with law (NMSA 1978 Section 13-1-128).

D. Emergency Procurements

The Town Procurement Officer may make emergency procurements when 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 1978 Section 13-1-127-A-B-C-D-E). Any Emergency Purchase will be published in accordance with law (NMSA 1978 Section 13-1-128).

E. Utilizing Other Existing Contracts

The Town may contract for services, professional services, construction, or items of tangible personal property without the use of competitive sealed bids or competitive sealed proposals as follows (NMSA 1978 Section 13-1-129):

(1) At a price equal to or less than the contractor's current federal supply contract (GSA), providing the contractor has indicated in writing a willingness to extend the contract's pricing, terms and conditions to the state agency and the purchase order adequately identifies the contract relied upon; or

(2) With a business which has a current price agreement with the state purchasing agent or a central purchasing office for the item, services, or construction meeting the same standards and specifications as the items to be procured, as long as the total quantity purchased does not exceed the quantity which may be purchased under the applicable price agreement, and the purchase order adequately identifies the prices agreement relied upon.

(3) Notwithstanding the foregoing, whenever possible, every effort must be attempted to receive competitive bids.

F. 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 of each agency, public body or external procurement unit. (NMSA 1978 Section 13-1-135).

SECTION 5. PURCHASE ORDERS AND CONTRACTS

A. Purchase Orders (POs)

POs are issued solely by the Procurement Officer. POs are required for any purchases with a value of \$3,000.00 or more. In the event the value of a purchase is less than \$3,000.00, notice shall be given to

the Procurement Officer prior to the purchase being made and the receipt evidencing the purchase shall be given to the Procurement Officer as soon as practicable. An official purchase order consists of an authorized signature or facsimile signature and purchase order number. All purchase orders should clearly specify what types of goods or services are being obtained. A PO number, when required, should be obtained by the vendor prior to conducting business with the Town. Vendors are cautioned to not sell materials, equipment and/or services without an official purchase order or purchase order number. Failure to obtain a PO number prior to delivery of goods or 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 Town Procurement Officer immediately at 505-286-4518.

Prior to issuance of PO, vendors conducting business with the Town of Edgewood must complete a W-9 Form (Request for Taxpayer Identification Number and Certification) Any vendor requesting a tax-exempt certificate (Nontaxable Transaction Certificate) from the Town must provide their State of New Mexico Combined Reporting System (CRS) identification number to the Clerk-Treasurer.

B. Entering Into a Written Contract

Once the Procurement Officer has made the determination for the award (see NMSA 1978 Section 13-1-95.2), has presented the recommendation to the Governing Body and obtained approval by roll call vote to proceed with a vendor, and before work commences or goods delivered, the Town of Edgewood and the Contractor must enter into a written contract signed by both parties. Once approved by the Governing Body, the Mayor, Town Manager, or a designee may sign the contract on behalf of the Town of Edgewood (NMSA 1978 Section 13-1-100). Written permission from the Mayor or Town Manager granting a designee authority to sign a contract shall be included with the procurement file and/or attached to the contract. The Clerk-Treasurer shall attest to any signed contract. A purchase order must also be issued by the Town and accepted by the contractor. 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 the 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 requirement that records be maintained for a minimum of three (3) 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 1978 Section 13-1-191.1)

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

(1) Contract Modifications, Construction Contracts, Change Orders and Field Orders

a.) Amendment – after a written contract is entered into, only a written instrument signed by all parties involved may modify it.

b.) 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 make 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.

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

d.) Any change order, or other amendment to a contract that has been previously approved by the Town Governing Body, must be approved by both the Town Procurement Officer and Mayor or Town Manager provided the amount of the change order or contract amendment is not greater than \$20,000, and that sufficient monies are appropriated in the budget to accommodate the change order or amendment.

e.) Any change order or amendment greater than \$20,000 will require the specific approval of the Town's Governing Body. If it is determined that an emergency or urgent situation exists that such delays will cause damage, increases in cost, or loss of construction time and it is in the best interest of the Town of Edgewood, a determination may be issued by both The Town Procurement Officer and Mayor or Town Manager with detailed documentation which supports the determination and signed by the Town Procurement Officer, Mayor or Town Manager and the Project Manager/Department Head that the contract modification or change order over \$20,000 may be issued, subject to Town Governing Body approval at the earliest date possible after the issuance.

(2) Cost or Pricing Data for Change Orders or Contract Modifications

(NMSA 1978 Section 13-1-140 through 144)

For construction contracts, the contractor shall submit costs 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 \$20,000.

Any change order or amendment that will exceed the amount in the appropriated budget will require the specific approval of the Town Governing Body, regardless of the amount of the change order or amendment.

C. Insurance

The Town of Edgewood 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 within the Town. For further information regarding insurance requirements, please contact the Clerk-Treasurer.

D. 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 30. Any questions should be directed to the Town of Edgewood, Clerk-Treasurer, P.O. Box 3610, Edgewood, NM 87015.

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 1978 Section 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 received, the Town will inspect the goods, construction, or services in light of the relevant requirements and specifications. Within thirty (30) 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 thirty (30) 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 thirty (30) days of receiving adequate, approved, properly invoiced goods, construction, or service. The Town may extend payment beyond the 30-day period provided herein if unforeseen circumstances prevent timely payment, in which case, within 30 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 IFB and RFP and in contracts awarded pursuant to solicitations by the Town. (NMSA 1978 Section 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.

EXCEPT AS OTHERWISE PROVIDED HEREIN, PURCHASE ORDER NUMBER MUST APPEAR ON ALL INVOICES AND ALL CORRESPONDENCE

E. Prevailing Wages (Public Works Projects)

Every contract or project in excess of sixty thousand dollars (\$60,000) that the Town of Edgewood 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 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 payment computed at wage rates not less than those stated in the minimum wage rates issued for the project. The specific wage and fringe benefits required to be paid to these categories of workers will be set forth in the IFB document. (NMSA 1978 Section 13-4-11)

F. Federally Funded Construction Projects

If a public construction project is funded or assisted by the federal government and the project or contract is over \$2,000, pursuant to the Davis-Bacon Act, federal prevailing wage and fringe benefits must be paid to mechanics and laborers. See <https://www.dol.gov/whd/govcontracts/dbra.htm>.

G. 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 RFP or to be considered for award of any portion of a public works project greater than (\$60,000) for a public works project that is subject to the Public Works Minimum Wage Act (NMSA 1978 Section 13-4-10) 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. The registration number and copy of the official "Certificate of Public Works Registration" are required when submitting either a bid or 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. (NMSA 13-4-13.1A)

SECTION 6. INSPECTION OF PUBLIC DOCUMENTS

Pursuant to the inspection of Public Records Act, NMSA 1978 Section 14-2-1, everyone has the right to inspect Town of Edgewood public records including those records that reside with the Clerk-Treasurer. Requests should be made in writing to the Town Clerk-Treasurer, P.O. Box 3610, Edgewood, NM 87015 using the Town's inspection of public records request form available on the Town's web site, <http://www.edgewood-nm.gov/2494/Request-for-Proposals-RFPS> or by calling (505) 286-4518. Bids are not available for inspection until public bid opening. Proposals are not available for inspection until after contract award. (NMSA 1978 Section 13-1-116) Other restrictions on availability of documents may apply pursuant to the Inspection of Public Records Act. (NMSA 1978 Section 14-2-1).

SECTION 7. AMENDMENT PROCEDURE

The Town Governing Body may, from time to time, amend or modify this Ordinance after Public Hearing, due notice of which shall be given as required by law.

SECTION 8. CORRECTIONS

The Town Clerk/Treasurer and the codifiers of this ordinance are authorized to make necessary clerical corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

SECTION 9. SEVERABILITY OF PROVISIONS

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance, it being the intent of the Governing Body to enact each section, subsection, sentence, clause or phrase of this Ordinance separately and independently of each other section, subsection, sentence, clause or phrase.

PASSED, APPROVED, and ADOPTED this 5th day of April 2022.


Audrey J. Jaramillo, CMO, CPA, CFE, JM
Mayor

ATTEST:


Stefanie Muller
Clerk/Treasurer