

**Report on Responses
to the 2018-2019 Grand Jury Report:**

***Nevada County Request for Proposal
and Procurement Practices***

2019-2020 Nevada County Grand Jury

Report Date: April 2, 2020

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Nevada County Request for Proposal and Procurement Practices

A Report on Responses to the 2018-2019 Grand Jury Report

Summary

The 2018-2019 Nevada County Grand Jury (2018-2019 Jury) conducted an investigation into the Nevada County (County) Request for Proposal (RFP) process based on a citizen's complaint. It determined that the County did not have comprehensive policies and procedures regulating its procurement process, relying on a *Nevada County Purchasing Guide (Purchasing Guide)*, dated June 13, 2017, and an undated amendment to that document. Its investigation found that these publications, together with the *Nevada County Administrative Code (Admin Code)* were not consistent with available best procurement practices.

The 2019-2020 Nevada County Grand Jury (Jury) has reviewed the responses to the report titled [*Nevada County Request for Proposal and Procurement Practices*](#) issued by the 2018-2019 Jury (2018-2019 Report) and inquired into progress toward implementation of the recommendations. This document is a report on the follow-up investigation by the 2019-2020 Jury. It contains the responses received, observations of the Jury on the responses, results of follow-up investigation, and the subsequent findings and recommendations.

Many of the findings and recommendations in the 2018-2019 report released April 30, 2019, were focused on improving the *Nevada County Purchasing Guide (Purchasing Guide)* and procurement practices that were in effect during the 2018-2019 Jury's investigation. The Nevada County Board of Supervisors (BOS) based the majority of its responses on the *Nevada County Purchasing Policy (Purchasing Policy)*, adopted on May 28, 2019, in BOS Resolution No. 19241, suggesting that it, along with the *Nevada County Purchasing Procedures Manual (Purchasing Procedures Manual)* that was described as in process, would cover the issues raised.

The Jury verified through document reviews and interviews with County personnel that the following has occurred since the 2018-2019 Report was issued:

- A new *Purchasing Policy* was adopted and released;
- Nevada County Purchasing Department (Purchasing Department) staff provided training and assistance to other County departments and agencies;
- The Nevada County Human Resources Department (HR Department) was mandated to provide general County-wide training and depends on each department to develop specific subject matter training;
- The *Purchasing Procedures Manual* was found to be in draft form as of April 2, 2020;
- Changes to the *Admin Code* significantly raised purchasing authority thresholds, streamlining the purchasing process; and

- Staffing in the Nevada County Auditor-Controller’s (Auditor-Controller) office remains an issue, seriously affecting the level of department and contract audits required by Resolution No. 98479 adopted on October 27, 1998.

The Jury concludes that adoption of the new *Purchasing Policy* and approval of the revised *Admin Code* have addressed many of the issues raised in the recommendations, however, without the completion of the *Purchasing Procedures Manual* and improvement in the level of department and contract audits, the Jury is unable to agree that all issues have been addressed.

Glossary

2018-2019 Jury	2018-2019 Nevada County Grand Jury
2018-2019 Report	The 2018-2019 Nevada County Grand Jury Report titled <u><i>Nevada County Request for Proposal and Procurement Practices</i></u>
Admin Code	Nevada County Administrative Code
Auditor-Controller	Nevada County Auditor-Controller
BOS	Nevada County Board of Supervisors
CEO	Nevada County County Executive Officer
County	County of Nevada
HR Department	Nevada County Human Resources Department
IGS	Nevada County Information and General Services
Jury	2019-2020 Nevada County Grand Jury
Purchasing Department	Nevada County Purchasing Department
Purchasing Agent	Nevada County Purchasing Agent
<i>Purchasing Guide</i>	<i>Nevada County Purchasing Guide</i>
<i>Purchasing Policy</i>	<i>Nevada County Purchasing Policy</i>
<i>Purchasing Procedures Manual</i>	<i>Nevada County Purchasing Procedures Manual</i>
RFP	Request for Proposal

Background

The 2018-2019 Jury conducted an investigation into the County RFP process based on a citizen’s complaint. It was determined that the County did not have comprehensive policies and procedures regulating its procurement process, relying on a *Purchasing Guide*, dated June 13, 2017, and an undated amendment to that document. Its investigation found that these publications, together with the County *Admin Code* were not consistent with available best procurement practices. (See Appendix A for the summary of the 2018-2019 Report.)

On April 30, 2019, the 2018-2019 Nevada County Grand Jury released a report titled *Nevada County Request for Proposal and Procurement Practices*, including five findings and nine recommendations. Since that date the following has occurred:

- BOS approved a new *Purchasing Policy* on May 28, 2019;

- BOS approved the revised *Admin Code* (Ordinance No. 2468) on June 11, 2019;
- *Admin Code* became effective on July 12, 2019, allowing the new *Purchasing Policy* to be implemented at that time;
- The new *Purchasing Procedures Manual* was reported to be in process;
- The request for responses to the recommendations resulted in the following:
 - BOS issued responses on July 19, 2019,
 - Auditor-Controller issued responses on June 26, 2019,
 - Nevada County CEO (CEO) did not respond,
 - Nevada County Purchasing Agent (Purchasing Agent) did not respond, and
 - Nevada County Human Resources Director did not respond.

The Jury reviewed the responses to the 2018-2019 Report and inquired into progress toward implementation of the recommendations. This document is a report on the follow-up investigation. It contains the responses received, observations on the responses, results of a follow-up investigation, and the subsequent findings and recommendations. The Jury sought answers to the following questions:

- Has the new *Purchasing Policy* addressed the issues that led to last year’s report?
- Has the *Purchasing Procedures Manual* been completed?
- What is the status of the required department and contract audits by the Auditor-Controller’s Office?
- What training has taken place on purchasing procedures and what is the plan for ongoing training?
- What annual review and updating of these documents is planned?

Approach

The Jury’s investigation included the following activities:

- Review of County purchasing documentation,
- Review of the *Admin Code*,
- Independent online research, and
- Interviews with County personnel.

Discussion

Many of the findings and recommendations in the 2018-2019 Report released April 30, 2019, were focused on improving the *Purchasing Guide* and procurement practices that were in effect during the 2018-2019 Jury’s investigation. The BOS based the majority of its responses on the *Purchasing Policy*, suggesting that it, along with the *Purchasing Procedures Manual* that was described as in process, would cover all the issues raised.

The Jury also learned that the *Admin Code* had been updated in order to streamline the County’s purchasing process and to provide the authority for the new *Purchasing Policy*. Updates to the *Admin Code* were approved on June 11, 2019 (Ordinance. No. 2468). The changes to the *Admin Code* became effective on July 12, 2019 (30 days after BOS approval). Thereafter, contracts could be executed using the new *Purchasing Policy*.

The table below highlights the sequence of events:

Timeline of Events – 2019	April 30	May 28	June 11	July 12
2018-2019 Grand Jury report issued				
Purchasing Policy approved by BOS				
Admin Code ordinance approved by BOS				
Purchasing Policy in force – 30 days after BOS approval of the ordinance				

The Jury verified through document reviews and interviews with County personnel that the following has occurred since the original report was issued:

- Purchasing staff provided training and assistance to other County departments and agencies,
- The HR Department is mandated to provide general county-wide training and depends on each department to develop specific subject matter training,
- Changes to the *Admin Code* have significantly raised purchasing authority thresholds, and,
- The level of department and contract audits required by Resolution No. 98479 remains an issue.

The following section of this report presents the Jury’s analysis of the BOS responses to the findings and recommendations of the 2018-2019 Report. Each finding and recommendation is listed with the responses provided and the observations of the 2019-2020 Jury. Findings and recommendations of the 2019-2020 Jury are presented at the end of this section.

**Grand Jury Observations on the Findings and Recommendations of the
2018-2019 Grand Jury Report Titled
*Nevada County Request for Proposal and Procurement Practices***

According to California Penal Code § 933(c) elected county officers or agency heads must respond to findings and recommendations of the Jury within 60 days. “Elected county officers” is the operative term. The grand jury may request a response from an appointed official, although they are not legally obligated to respond. The CEO, Purchasing Agent, and Human Resources Director did not respond as requested.

Findings and Recommendations of the 2018-2019 Grand Jury

F1. The County does not have approved policies or procedures for the efficient operation of the Purchasing Department.

RES.	RESPONSE	2019-2020 GJ OBSERVATIONS
BOS	DISAGREE On May 28th 2019, the Board of Supervisors by Resolution 19241 passed and adopted the Nevada County Purchasing Policy.	At the time the Grand Jury report was issued, April 30, 2019, the <i>Purchasing Policy</i> was not in place. However, we applaud the new policy and have determined that it does respond to many of the 2018-2019 Jury findings.
CEO	NO RESPONSE	
Purchasing Agent	NO RESPONSE	

F2. The County’s Purchasing Guide is a training manual, not formal policy or procedure. The Purchasing Guide contains discrepancies between its contents, the Admin Code, and California Government Code; is not consistent with generally recognized best procurement practices, is ambiguous as to RFP procedures, and is not always followed by County Offices and Departments.

RES.	RESPONSE	2019-2020 GJ OBSERVATIONS
BOS	AGREE	None
Purchasing Agent	NO RESPONSE	

F3. County employees receive training on the Purchasing Guide, but many who conduct purchasing operations and/or manage contracts are not fully trained on and do not always follow best procurement and contract management practices.

RES.	RESPONSE	2019-2020 GJ OBSERVATIONS
BOS	DISAGREE The purchasing guide has been replaced with a Board of Supervisors adopted Purchasing Policy recently. County staff who perform purchasing functions will be trained on the policy. With the size of an organization as large as the County, departmental staff with purchasing duties do change over time as people come and go, get promoted, or shift positions. As such, it is an ongoing effort to train new people on a regular basis across the year. The County has implemented a new contract management system to track countywide contracts to best practice standards.	The Jury understands that training has been provided by the Purchasing Department. The Jury learned that the Contract Management System, Cobblestone, has been partially implemented and is being used primarily as a repository system. A Business Solutions team, with representatives from the County Health and Human Services Agency, Auditor-Controller, Community Development Agency, Sheriff and Nevada County Information and General Services (IGS) is working on further implementation of the Cobblestone software.
Purchasing Agent	NO RESPONSE	
Human Resources	NO RESPONSE	

F4. RFP practices in the Purchasing Guide have a number of correctable issues that could be addressed with detailed procedures if properly followed by County Offices and Departments.

RES.	RESPONSE	2019-2020 GJ OBSERVATIONS
BOS	AGREE	Many correctable issues were not addressed with the new <i>Purchasing Policy</i> . The most notable among these issues is the lack of a finalized <i>Purchasing Procedures Manual</i> . Through interviews with IGS staff, the Jury understands that a finalized and approved <i>Purchasing Procedures Manual</i> will address these issues. The <i>Purchasing Procedures Manual</i> has not been completed as of April 2, 2020.
Auditor-Controller	AGREE	
CEO	NO RESPONSE	
Purchasing Agent	NO RESPONSE	

F5. The Office of the Auditor-Controller lacks sufficient staff to conduct contract reviews pursuant to BOS Resolution No. 98479, dated 27 October 1988 [*sic*], which requires internal contract audits be conducted every third year of the contract. No internal contract audits have been conducted since 2008 when the Auditor-Controller’s office staff was reduced by 25%.

RES.	RESPONSE	2019-2020 GJ OBSERVATIONS
BOS	<p>DISAGREE</p> <p>The Auditor Controller office has sufficient staff to conduct contract audits and does so regularly.</p>	<p>The Jury notes that the two responses do not align with each other.</p> <p>The critical question is whether audits are being conducted as specified by Resolution No. 98479.</p>
Auditor-Controller	<p>PARTIALLY AGREE</p> <p>Staff reductions in the Auditor-Controller's office as well as other County departments began in the Fiscal Year 2009-10 through 2011-12 to address the downturn in the economy. A total of four positions of the sixteen original allocated were eliminated equating to a 25% reduction. In Fiscal Year 2016-17, one staff position was reinstated bringing the allocated staffing to thirteen. Beginning in Fiscal Year 2009-10 upon the elimination of the Senior Accountant-Auditor assigned to the Internal Audit Function, a reassignment of the duties occurred and the contract audits continued to be conducted through the Fiscal Year 2013-14. Following that year, with the loss of the assigned audit staff member due to a transfer to another County department and the unsuccessful recruitment that followed for a replacement candidate with equivalent experience, the office was unable to meet the goals as outlined in Resolution 98479. In the Fall of 2018, a qualified candidate to perform internal audits was hired by the office and the contract audit program has been re-established.</p>	<p>The Jury has learned that the Auditor-Controller’s office continues to be understaffed and is unable to comply with the Resolution. The Auditor-Controller is now pursuing outsourcing the audit functions.</p>

Recommendations

R1. The CEO, in cooperation with the County’s Purchasing Agent, should continue researching procurement best practices and establish appropriate written procurement policies, practices, and procedures that would be followed in executing County procurement processes.

RES.	RESPONSE	2019-2020 GJ OBSERVATIONS
BOS	The recommendation has been implemented. On May 28th 2019, the Board of Supervisors by resolution 19241 passed and adopted the Nevada County Purchasing Policy.	The adoption and implementation of the new <i>Purchasing Policy</i> has taken place. A <i>Purchasing Procedures Manual</i> has not been completed as of April 2, 2020.
CEO	NO RESPONSE	
Purchasing Agent	NO RESPONSE	

R2. The County’s Human Resources department and Purchasing Agent should conduct an assessment of the training needs of current procurement staff and implement a plan for the training of new procurement employees on generally recognized best procurement practices.

RES.	RESPONSE	2019-2020 GJ OBSERVATIONS
BOS	The recommendation has been partially implemented. On May 28th 2019, the Board of Supervisors by resolution 19241 passed and adopted the Nevada County Purchasing Policy. Purchasing Staff will be working with Human Resources to provide training on the Nevada County Purchasing Policy.	The Jury has learned that the HR Department is not staffed to provide department-specific training. The HR Department reports that each department is responsible for developing its own training and the HR Department is available to assist them. The Jury was able to confirm that training on the new <i>Purchasing Policy</i> had been provided for department managers and purchasing staff. Interviews with County staff indicate that the Purchasing Department is responsive to requests for assistance.
CEO	NO RESPONSE	
Human Resources	NO RESPONSE	

R3. The Purchasing Agent should submit a report to the BOS on completed revisions to the Purchasing Guide, as well as policies and procedures.

RES.	RESPONSE	2019-2020 GJ OBSERVATIONS
BOS	The recommendation will not be implemented at this time. The Purchasing Guide has been replaced with the Nevada County Purchasing Policy via Resolution 19241.	The Jury understands that the <i>Purchasing Policy</i> replaces the <i>Purchasing Guide</i> and the <i>Admin Code</i> has been updated. However, as of April 2, 2020, the <i>Purchasing Procedures Manual</i> referenced in the <i>Purchasing Policy</i> has not been completed.
Purchasing Agent	NO RESPONSE	

R4. The Purchasing Agent should, within 60 days of establishing formal written policies, practices, and procedures, and completing revisions to the Purchasing Guide, lead each County agency through training on the County’s new policies, practices, and procedures.

RES.	RESPONSE	2019-2020 GJ OBSERVATIONS
BOS	The recommendation will not be implemented because it is not warranted. The County has replaced the Purchasing Guide with the Nevada County Purchasing Policy; therefore, the County will not provide training on the Purchasing Guide. However, training on the Nevada County Purchasing Policy will be provided over the course of the next year.	The Jury has learned that Purchasing staff has provided training on the <i>Purchasing Policy</i> . Further effort is required to finalize and approve the <i>Purchasing Procedures Manual</i> . Training will be required after it is finalized.
Purchasing Agent	NO RESPONSE	

R5. The Purchasing Guide should be reviewed and updated annually.

RES.	RESPONSE	2019-2020 GJ OBSERVATIONS
BOS	The recommendation will not be implemented because it is not warranted. While the Purchasing Guide will not be reviewed and updated annually, the Purchasing Policy will be reviewed annually and updated as applicable.	The Jury appreciates that the BOS agrees with annual review and appropriate updates of the <i>Purchasing Policy</i> .
Purchasing Agent	NO RESPONSE	

R6. The Purchasing Guide should be updated to include the following:

- a. required BOS approvals prior to issuance of in RFP;
- b. establishment and handling of protest periods;
- c. evaluation panel reviewer selection and recusals;
- d. procedure in the event of evaluation panel reviewer statistical anomalies;
- e. bidder qualification reviews where contract administrators have escalated concerns regarding a vendor’s past contract performance;
- f. maintenance of documented administrative files during a blackout period of County employee contacts involved with the RFP process and RFP respondents other than the County person named in the RFP document; and
- g. maintenance of complete administrative files documenting and justifying final decisions when that decision goes against the evaluation panel’s recommendation.

RES.	RESPONSE	2019-2020 GJ OBSERVATIONS
BOS	<p>The recommendation will not be implemented because it is not warranted.</p> <p>The Board of Supervisors adopted the Nevada County Purchasing Policy on May 28, 2019 that outline industry best practices for procurement policies.</p>	<p>The Jury recognizes that <i>the Purchasing Policy</i> replaces the <i>Purchasing Guide</i>.</p> <p>BOS response letter is silent on whether each of these issues is addressed by the new <i>Purchasing Policy</i>; a Jury review of the new policy reveals that several of these items were not addressed.</p>
Purchasing Agent	NO RESPONSE	

R7. The CEO’s office should complete a review of the Office of the Auditor-Controller and the staffing needs required to comply with BOS Resolution No. 98479 as soon as possible.

RES.	RESPONSE	2019-2020 GJ OBSERVATIONS
BOS	<p>The recommendation will not be implemented because it is not warranted.</p> <p>The Auditor Controller office has sufficient staff to conduct contract audits and does so regularly.</p>	<p>The BOS indicates that a staffing review isn’t warranted because staffing levels are sufficient. That seems to contradict the response provided by the Auditor-Controller.</p>
Auditor-Controller	<p>PARTIALLY AGREE</p> <p>The County has an established process in preparation of the annual budget cycle for departments to request a review of staffing needs. The Office of the Auditor-Controller will use that process to engage in the conversation with the CEO's office to address staffing needs and specifically to converting a temporary staff position to a permanent staff position to support the activities in the office including the Internal Audit Function.</p>	<p>However, the audits have not been completed as required by Resolution No. 98479 and staffing shortages have been cited as the cause.</p>

R8. The CEO’s office should work with the Office of the Auditor-Controller to develop a checklist for contract administrators to document at least annually vendor performance and compliance with liability insurance requirements.

RES.	RESPONSE	2019-2020 GJ OBSERVATIONS
BOS	<p>The recommendation will not be implemented because it is not warranted.</p> <p>In general, a personal service contract that is approved by the Board includes a Scope of Work that is evaluated against before payment can be issued. Additionally, all contracts must meet the approval of the Risk Manager’s liability checklist.</p>	<p>The two responses conflict with each other.</p> <p>As of the writing of this report, April 2, 2020, the meeting had not occurred.</p>
CEO	NO RESPONSE	
Auditor-Controller	<p>PARTIALLY AGREE</p> <p>The staff of the Auditor-Controller will schedule a meeting by September 1st with the CEO's Office, the Risk Manager and County Counsel to review department contract administrator's role, best practices and on-going contract oversight.</p>	

R9. All County contract administrators should, using the checklist referred to in R8, conduct performance evaluations and document them in an administrative file. Problems or concerns with a vendor’s performance should be formally investigated and addressed.

RES.	RESPONSE	2019-2020 GJ OBSERVATIONS
BOS	<p>The recommendation will not be implemented because it is not warranted.</p> <p>County personal service contracts include a Scope of Work that is evaluated against the work performed before payment can be issued. Additionally, all contracts must meet the approval of the Risk Manager’s liability checklist.</p>	<p>Dealing with problems/concerns about vendor performance are not addressed in this response.</p>
CEO	NO RESPONSE	
Purchasing Agent	NO RESPONSE	

The Jury concludes that adoption of the new *Purchasing Policy* and approval of the revised *Admin Code* have addressed many of the issues raised in the recommendations. However, without the completion of the *Purchasing Procedures Manual* and improvement in the level of department and contract audits, the Jury is unable to agree that all issues have been addressed.

Findings and Recommendations of the 2019-2020 Grand Jury

Findings

- F1** The *Purchasing Policy* approved May 28, 2019, does not fully address the recommendations of the 2018-2019 Nevada County Grand Jury.
- F2** The status of unresolved recommendations cannot be determined until the *Purchasing Procedures Manual* referenced in the new *Purchasing Policy* is released. The document had not been released as of April 2, 2020.
- F3** Training on the new *Purchasing Policy* was provided by the Purchasing Department staff; the HR Department provides general, not department specific training.
- F4** Department and contract audits required by Resolution No. 98479 are not up to date.
- F5** The Auditor-Controller's office continues to be understaffed.
- F6** The increased thresholds of the new *Purchasing Policy* have improved contract-processing efficiencies.
- F7** The *Purchasing Policy*, the *Admin Code*, and *Purchasing Procedures Manual* require periodic review to ensure continuous improvement.

Recommendations

- R1** The BOS should ensure that the Purchasing Agent completes the *Purchasing Procedures Manual*.
- R2** The BOS should ensure that the Purchasing Agent provides appropriate training for County departments on the new *Purchasing Procedures Manual*.
- R3** The BOS should ensure that the Auditor-Controller's office meets the requirements of Resolution No. 98479 with respect to audits of County departments and contracts.

- R4** The BOS should ensure that the Purchasing Agent maintains best procurement practices by establishing a schedule of review and revision of the *Purchasing Policy*, *Purchasing Procedures Manual*, and the *Admin Code*.

Responses

Pursuant to Penal Code section 933.05, the Nevada County Grand Jury requests responses from the following:

- Nevada County Board of Supervisors for:
 - Findings F1, F2, F4, F5, F6, and F7.
 - Recommendations R1, R2, R3, and R4.
 - Responses are due by August 27, 2020.

- Auditor-Controller for:
 - Findings F4 and F5.
 - Recommendation R3.
 - Responses are due by July 28, 2020.

Pursuant to Penal Code section 933.05, the Nevada County Grand Jury invites responses from the following:

- Purchasing Agent for:
 - Findings F1, F2, and F7.
 - Recommendations R1, R2, and R4.
 - Responses are invited by August 27, 2020.

Appendix

A. Summary from the Original 2018-2019 Report

The 2018-2019 Nevada County Grand Jury (Jury) responded to a citizen's complaint "regarding irregularities in the recent Request for Proposal (RFP) and the selection process for the organization selected to operate the County's animal shelter." The Jury conducted an investigation into Nevada County's (County) RFP process used to select the vendor cited in the complaint. The Jury reviewed pertinent documents and conducted interviews with personnel within County government and the Sheriff's Office.

During its investigation of the RFP process, the Jury found a number of problems to support its overall conclusion that the County's procurement practices are not consistent with generally recognized best procurement practices. After conducting several interviews, the Jury determined there was a lack of communication and coordination among the various departments involved with an animal control RFP. The Jury learned that the County does not have comprehensive established policies and procedures regulating its procurement process. Instead the County relies on a *Purchasing Guide*, dated June 13, 2017; an undated amendment to that *Purchasing Guide*; and the County Administrative Code (Admin Code). The Jury's investigation shows that these publications combined with the Admin Code do not adhere to generally available best procurement practices.

The Jury concluded that an adherence to generally recognized best procurement practices by the purchasing department would ensure that County procurement is performed honestly, fairly, effectively, and professionally. In turn, this ensures that best value is obtained and that the County recognizes that the public trust is embodied in the authority to expend County funds.

Efforts are underway within Information & General Services (IGS) to update the Admin Code to include policies and procedures that adhere to best procurement practices. The Jury commends this effort. However, the success of the program depends on the support of the Nevada County County Executive Office, County Counsel, and the Nevada County Board of Supervisor. Without this support IGS will not be able to implement any meaningful changes in a timely manner.