



TITLE: Acquisition of Consultant Professional Services

POLICY

NUMBER: BCC-26
CANCELS July 21, 2020
APPROVED: March 21, 2023
ORIGINATOR: Purchasing Services
REVIEW: March 21, 2026

I. OBJECTIVE

To prescribe policy for the selection process and acquisition of consultant professional services as defined by Section 287.055, Florida Statutes.

II. REFERENCES AND DEFINITIONS

- A. Section 287.055, Florida Statutes - "Consultants' Competitive Negotiation Act" ("the Act").
- B. Section 287.017, Florida Statutes – Purchasing categories, threshold amounts.
- C. Section 286.011, Florida Statutes – “Public meeting and records; public inspection; criminal and civil penalties.”
- D. Section 286.0113, Florida Statutes – “General exemptions from public meeting.”
- E. Section 255.0525, Florida Statutes – “Advertising for competitive bids or proposals.”
- F. BOARD OF COUNTY COMMISSIONERS POLICY BCC-25 – “PROCUREMENT” (“BCC-25”).
- G. Board – Brevard County, Florida Board of County Commissioners.
- H. Compensation – means the amount paid by the County for professional services regardless of whether stated as compensation or stated as hourly rates, overhead rates, or other figures or formulas from which compensation can be calculated.
- I. County - Brevard County, Florida a political subdivision of the State of Florida.
- J. Continuing Contract – is a contract for professional services entered into in accordance with Section 287.055, Florida Statutes, as may be amended from time to time, between the County and a firm, whereby the firm provides professional

services to the County for projects in which the estimated construction or study costs do not exceed the limits established in Section 287.055(2)(g), Florida Statutes or for work of a specified nature as outlined in the contract required by the County with the contract being for a fixed term or with no time limit except that the contract shall provide a termination clause. Firms providing professional services under continuing contracts shall not be required to bid against one another.

- K. Design-Build Firm - A firm that holds a current certificate of registration under Chapter 489, Florida Statutes to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or holds a current certificate of registration under Chapter 481, Florida Statutes to practice architect or landscape architecture; or a firm who holds a current certificate as a registered engineer under Chapter 471, Florida Statutes to practice engineering and who is employed by or under contract to the agency for the providing of professional architect services, landscape architect services, or engineering services in connection with the preparation of the design criteria package.
- L. Design Criteria Package - Concise, performance-oriented drawings or specifications of the public construction project. The purpose of the design criteria package is to furnish sufficient information so as to permit design-build firms to prepare a bid or a response to an agency's request for proposal or to permit an agency to enter into a negotiated design-build contract.
- M. Firm – an individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice architecture, engineering, or surveying and mapping in the state.
- N. Negotiate (or any form of the word) – to conduct legitimate arm's length discussions and conferences to reach an agreement on a term or price. The term does not include presentation of flat-fee schedules with no alternatives or discussion.
- O. Negotiating Committee – A committee appointed by the Board or the County Manager to negotiate a contract for professional services. Upon the recommendation of the County Manager or the department/office director a negotiating committee is formed with a cross-section of employees with the knowledge of the professional services sought and the financial requirements of the project. The County Attorney's Office may be requested to assist the negotiation committee, but shall not be a voting member of the negotiating committee.
- P. Professional Services - services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping as defined by the laws of the State, or those services performed by an architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his/her professional employment or practice.
- Q. Project – means fixed capital outlay study or planning activity as described in the public notice of the County that complies with Section 287.017, Florida Statutes of which the professional services are outlined in a contract. A project may include:

1. A grouping of minor construction, rehabilitation, or renovation activities under contract; or
 2. A grouping of substantially similar construction, rehabilitation, or renovation projects under contract; or
 3. An individual professional study under contract; or
 4. For work of a specified nature as outlined in a contract.
- R. Selection Committee – a Selection Committee member may be appointed by the Board or the County Manager to evaluate and rank firms desiring to perform professional services for the County. Upon the recommendation of the County Manager or the department/office director. A Selection Committee is formed to evaluate Request for Qualifications of professional firms appointed to serve and represent a cross-section of employees with the knowledge of the professional services sought. The County Attorney's Office may be requested to assist the Selection Committee, but shall not be a voting member of the Selection Committee.

III. DIRECTIVES

A. PROJECT APPROVAL

1. Projects that comply with Section 287.055, Florida Statutes submitted to the Board for consideration and approval through the County's Annual and Capital Budget or the Board's approval of the Annual Supply Bids, Proposals, and Requests for Qualifications or the Board's annual approval of procured products or services on the Vendor of Record list.
 - a. Selection and Negotiating Committee will be appointed by the County Manager based upon the recommendation of the department/office director. A Selection and Negotiating Committee typically consists of three to five members, representing a cross-section of employees with the knowledge of the services or commodities sought.
2. Projects submitted to the Board and approved by the Board during a public meeting that complies with Section 287.055, Florida Statutes.
 - a. The Selection Committee and Negotiating Committee will be appointed by the Board based on the recommendation of the County Manager. A Selection and Negotiating Committee typically consists of three to five members, representing a cross-section of employees with the knowledge of the services or commodities sought.

B. ADVERTISEMENT OF PUBLIC PROJECTS

All projects procured under Section 287.055, Florida Statutes shall be publicly advertised as outlined in Board Policy BCC-25, "Procurement," and Section 287.055, Florida Statutes.

1. In case of an emergency, the procedures required in Section 287.055, Florida Statutes may be altered by the County Manager in a manner that is reasonable under the emergency circumstances for projects involving a Board-declared emergency.
2. There shall be no public advertisement requirement or utilization of the selection process for projects in which the agency is able to reuse existing plans from a prior project. However, a public advertisement for any plans which are intended to be reused at some future time shall contain a statement that provides that the plans are subject to reuse.
3. A good faith estimate shall be provided in determining whether the proposed activity meets the threshold amounts referred to in this paragraph.

C. COMPETITIVE SELECTION

1. Appointment and Quorum Requirements of the Selection Committee

The Board or County Manager will appoint a Selection Committee to review and evaluate the statement of qualifications and performance data. A majority of the appointed Selection Committee members shall constitute a quorum for all selection transactions.

2. Notification of Need for Service

- a. For publicly announced requirements, Purchasing Services, shall publicly advertise as outlined in Procurement Policy BCC-25 and Section 287.055(3), Florida Statutes upon notification from the responsible department/office director. The advertisement shall indicate how interested consultants may apply for consideration. Trade journals or trade magazines may also be utilized for public advertisement for consultant services. Electronic posting of competitive opportunities shall be posted on the County's Website and the County's electronic Internet posting site at www.myvendorlink.com or a successor platform.

Florida Statutes require reasonable notice of public meetings, such as Selection and Negotiation Committee meetings with Consultants. The notice will include the Selection or Negotiation Committee name and purpose of the meeting, location of meeting, date and time of the meeting, and required statements outlined under Section III of the County's Administrative Order AO-50, Notification and Site Selection of Public Meetings/Hearings for Compliance with the Americans with Disabilities Act and the Florida Accessibility Code (FAC). A copy of the notice of the public meeting shall be posted on the County's Website and www.myvendorLink.com or a successor platform and in accordance with Administrative Order AO-50.

Purchasing Services will ensure a record of the meeting is maintained, either through a written or recorded method.

3. Certifications of Consultants

- a. Any firm or individual desiring to provide professional services to the County must first be certified by the County as qualified in accordance with Federal, State, and local rules, laws, and regulations. The County shall make a finding that the firm or individual with whom its contract is fully qualified to render the required services. Among the factors to be considered in making this finding are the capabilities, adequacy of personnel, past record, and experience of the firm or individual. The Selection Committee shall review statements of qualification and performance data submitted in response to the public announcement and shall select, in order of preference, no fewer than three (3) firms deemed to be the most highly qualified, if at least three (3) firms respond to the announcement. Consultant certification criteria shall include but is not limited to, the ability of professional personnel; past performance; willingness to meet time and budget requirements; location; recent, current, and projected workloads; and volume of work previously awarded, with the purpose of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms. The Request for Qualification shall include the evaluation and scoring criteria to be utilized by the Selection Committee. The higher the score the more qualified the firm.
- b. The Selection Committee may observe public presentations and conduct discussions with the firms pertaining to the firms' qualifications, approach to the project, and ability to furnish the required service. Each Selection Committee member shall rank each firm/individual observed through personal presentations by assigning the top firm number 1, the second-ranked firm number 2, etc. If interviews are not conducted, the rankings applied during the "short-list" phase will determine the rank order of firms for negotiation.
- c. Purchasing Services shall maintain this summary listing of the rank order of the firms evaluated, and present its recommendations of the three most qualified firms to the Negotiation Committee if at least three (3) firms respond to the announcement. Should the County be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price the County determines to be fair, competitive, and reasonable, negotiations with that firm shall be formally terminated. The County shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the County shall terminate negotiations. The County shall then undertake negotiations with the third most qualified firm, and so forth as necessary until a contract can be entered into between the County and a firm.

E. CONTRACT NEGOTIATION

1. The Negotiating Committee shall be comprised of the staff members of the County having knowledge and interest in the project requiring professional services. A majority of the Negotiating Committee shall constitute a quorum for contract negotiations purposes. The Negotiating Committee shall negotiate a contract with the most qualified firm for professional services at compensation, which is determined to be fair and reasonable. The County Attorney's Office shall be assigned to assist the committee in its negotiations, but shall not be a negotiating committee member.
2. For all lump-sum or cost-plus fixed fee contracts exceeding Category 4 as defined in Section 287.017, Florida Statutes, the firm awarded the contract must execute a truth-in-negotiation certificate stating that the wage rates and other factual unit costs supporting the compensation are accurate, complete, and current, at the time of contracting. Any contract requiring this certificate shall contain a provision that the original contract price and any additions thereto will be adjusted to exclude any significant sums by which the County determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract adjustments must be made within one (1) year following the end of the contract.
3. In accordance with Section 287.055(6), Florida Statutes, each contract for professional services shall contain a prohibition against contingent fees as follows: "The architect (or registered land surveyor or professional engineer, as applicable) warrant that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the architect (or registered land surveyor, or professional engineer as applicable) to solicit or secure this agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the architect (or registered land surveyor or professional engineer, as applicable) any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this agreement.

F. REJECTIONS OF ALL PROPOSALS

The Board shall reserve the right to reject all proposals and re-issue the notice of the need for professional services.

G. PRECEDENCE OF FLORIDA STATUTES AND FEDERAL/STATE GRANT GUIDELINES

In the case of any contradictions, irregularities or ambiguities between the procedures established in this Policy and Section 287.055, Florida Statutes, also known as the "Consultants' Competitive Negotiation Act," requirements directed in Section 287.055, Florida Statutes, applicable federal laws, as well as grant guidelines and provisions, or any other applicable Statute shall apply.

H. CONTRACT ADMINISTRATION

1. If a contract has complied with the acquisition process set forth in this Policy, then the Board implicitly delegates authority to the respective County representative(s) to execute associated amendments, addenda, or task order changes in accordance with the requirements and thresholds established in Board Policy BCC-25 and Administrative Order AO-29.
2. Amendments, addenda or task order changes are to be considered individually and not cumulatively for the purpose of determining approval authority.
3. Splitting of amendments, addenda, or task order increases to circumvent established approval authority thresholds is prohibited.
4. In the case of continuing consultant contracts, all amendments, addenda, and task order increases shall comply with the limitations for continuing consultant contracts as set forth herein and in Section 287.055, Florida Statutes.

IV. RESERVATION OF AUTHORITY

The Board reserves the right to amend or modify this policy at any time.

Attest:

Brevard County, Florida

Rachel Sadoff, Clerk

Rita Pritchett, Chair

Approved by the Board of County
Commissioners on March 21, 2023.

Board of County Commissioners