



POLICY

Number: BCC-25
Cancels: 10/25/2022
Approved: 09/17/2024
Originator: Purchasing Services
Review: 09/17/2027

TITLE: PROCUREMENT

I. Objective

The Policy's Objective is to maximize the value received for public procurement by providing safeguards for maintaining quality, accountability, and integrity, as well as ensuring the fair and equitable treatment of all persons involved in public procurement.

II. Definitions and References

- A. **Bid:** A formal written and sealed response to a formal advertisement for specified requirements of more than \$50,000 in value.
- B. **Board:** Brevard County Board of County Commissioners.
- C. **Capital Outlay Item:** Equipment with a value in excess of \$1,000 and an expected life of more than one year, such as automobiles, furniture, and computer devices valued at or above \$500.
- D. **Change Order:** A written instrument issued on or after the effective date of the formal written contract or purchase order, which, when duly executed by the County and contractor, amends the contract documents to provide for changes in the work or in the provisions of the contract documents, or changes in contract price or contract time, or any combination thereof.
- E. **Cone of Silence:** Descriptive term for the prohibition in solicitations instructing vendors that once a need is advertised, the vendor is only permitted to communicate with the County's designated representative noted in the solicitation documents. The Cone of Silence is designed to protect the professional integrity of the public procurement process by shielding it from undue influence prior to the recommendation of contract award. County employees not designated by the representative noted in the solicitation shall refrain from discussing the public procurement while the competition is in progress. The vendors are asked by the terms of the solicitation to refrain from contacting Commissioners, County Officer, employees, or agents regarding the pending solicitation until after the notice of award is posted. The Cone of Silence does not apply to the County's designated

representative noted in the solicitation or discussion at a duly noticed Pre-Proposal Conference or at a Public Meeting.

- F. **Consultant Agreements:** Professional services agreements governed by section 287.055, Florida Statutes, also known as the "Consultants' Competitive Negotiation Act," and Board Policy BCC-26, "Acquisition of Consultant Professional Services."
- G. **Contract:** Contract means all types of written binding agreements, regardless of what they may be called, for the procurement or disposal of supplies, services or construction.
- H. **Designees:** When used in this Policy, any title, such as Board of County Commissioners, County Manager, Assistant County Manager or Department/Office Director, is presumed to include that person's official designee as if the Policy read "Board of County Commissioners or designee."
- I. **Direct Payment Voucher System:** Accounts Payable Fast Entry system, which provides for prepayment of miscellaneous and minor expenses when a purchase order is not issued and vendor will not accept purchasing card.
- J. **Florida Statutes:** Chapters 286.011, 286.0113, 218.70, 448.095, 607.0505 et. seq., 218.80, Chapter 255 and Chapter 287, Procurement of Personal Property and Services.
- K. **Grant** (for the purposes of this policy): An award of which includes money, property, services, etc., by a source, which includes the federal government, state government, other local governments, non-profit agencies, private businesses and citizens.
- L. **Informal Quote:** When a competitive award isn't available, a Department/Office may obtain three (3) written quotes from a vendor to furnish the county-specific goods and/or services at a stated price, quantity, quality, and delivery timeframe of \$50,000 or less in value. All quotations shall be documented and retained by the user department/office and referenced on all purchase requisitions.
- M. **Lease:** A written contract by which one party (lessor) gives to another (lessee) the usage of tangible personal or real property for a specified time and fixed payments. Under a straight lease, there is no accumulation of equity and no provision for the buyout of the leased property.
- N. **Lease Purchase:** A lease contract with terms providing for the option to transfer title during or at the end of the lease term.
- O. **Project:** Includes all work necessary to produce a complete and usable facility or a complete and usable improvement to an existing facility (or produce such portion or a phase of a complete and usable facility) or improvements, including any singular roadway improvements not contiguous to a singular mobilization of materials and equipment.

- P. **Purchasing Card:** An accounts payable mechanism which utilizes credit card infrastructure to purchase of goods and/or services.
- Q. **Purchasing Manual:** A document that describes procedures to be followed by Purchasing Services and the departments/offices it serves.
- R. **Purchase Order:** A written instrument under which a vendor agrees to provide goods or services to a department/office on a demand or as-needed basis; the purchase order generally establishes a maximum dollar limit, prices, terms, conditions, and the period covered, shipments are to be made as required by the department/office. An open purchase order may be used as a release and encumbrance document to authorize a department/office to order any predetermined amount from a competitively awarded contract on an as-needed basis. Acceptance of a Purchase Order by a vendor shall constitute a contract as defined by this section. Where formal contracts and agreements are used to procure the goods and services, a purchase order is used only as an internal encumbrance document and does not constitute the contract.
- S. **Request for Proposal (RFP):** A formal written solicitation for a good and/or service for which the evaluation of a proposal may be based on prior established criteria based on the relative importance of price and other evaluation factors and/or criteria. Typically, the evaluation of the proposal is not based on price alone.
- T. **Request for Qualification (RFQ):** A formal written and sealed solicitation to solicit qualifications from select firms or businesses to provide professional services wherein the respondents are evaluated based solely on their qualifications. Typically, the initial selection is made based on the qualifications without regard to price. The terms and conditions, as well as the price, are later negotiated.
- U. **Qualified Bidder or Proposer:** The vendor(s) who have submitted a response to a Bid, Request for Proposal, or Request for Qualifications in a manner that demonstrates that they are a responsive and responsible vendor(s).
- V. **Responsive Bidder or Proposer:** A vendor who has submitted a bid or proposal that conforms in all respects to the requirements of the bid package or request for proposal, including, but not limited to, submission of the bid or proposal on required forms with all required information, signatures, and notarizations at the place and time specified.
- W. **Service/Maintenance Agreements:** Contractual documents detailing specifications under which the vendor will provide maintenance/service to equipment in the possession of the County.
- X. **Sole Source/Single Source/Proprietary Purchase:** Only known existing source, or only one viable source, for those procurements which meet the needs of the user department/office as determined by a reasonably thorough marketplace analysis.

These purchases may include commodities and services affected by territorial distributorships, original equipment manufacturers, and components; requirements to maintain a degree of continuity to the original or existing decor, equipment, or programs, and where an attempt to bid/quote could result in operational or functional inconsistency or excessive delay.

III. Directives

- A. All requests for the purchase of materials and/or services, and all purchases shall be for a public purpose and not a personal benefit to a Commissioner or any employee(s) of Brevard County Board of County Commissioners and in accordance with this policy unless otherwise exempt under this policy.
- B. Purchases of materials and/or services by Commissioners or Commission Offices shall be used primarily for day-to-day expenses for commission offices and for the purchase of items necessary to operate their Commission Offices. Purchase of material and/or services shall not be used for any expenses that provide a personal benefit to the Commissioner.
- C. Purchase of materials and/or services by Commissioners or Commission Offices shall not be used for third party purchases or purchases whereby a third party is the recipient of the purchased item(s) and are prohibited. The term third party means anyone not an employee of the County Commission Office.
- D. Any purchases of materials and/or services by a Commission Office shall be submitted for acknowledgement on a Brevard County Board of County Commissioner's Agenda in the Bill Folder.
- E. Materials or services may be purchased by multiple-source competitive practices when a department/office has determined through market research that this is the most cost-effective means to purchase. Cooperative bidding, to include purchasing from State, and/or other authorized joint purchase agreements may be used to reduce administrative costs for construction services and high use, consumable items.
- F. Purchasing cards will be assigned based on agency need and will be used to replace, when possible, the use of petty cash, direct payment fast entry vouchers, and open purchase orders.
- G. Small purchases of \$3,000 or less cumulative total, which are not covered under a competitive award, have no mandatory quotation or bid requirements.
- H. Every reasonable effort shall be made to competitively solicit from qualified sources for purchasing thresholds referenced in this Section. The requisitioning approval authority, award authority and payment approval authority based on the thresholds below. Splitting of requisitions to circumvent competition required at established thresholds is prohibited.

1. Up to \$50,000: The Department/Office Director may issue an informal quote as defined in Section II.L, for a value of \$50,000 or less.
2. Up to \$100,000: Assistant County Manager with recommendation for award from the user department/office and Purchasing Manager or selection committee, as appropriate, via competitive solicitation.
3. Up to \$200,000: County Manager with recommendation for award from the user department/office and Purchasing Manager or selection committee, as appropriate, via competitive solicitation.
4. Above \$200,000: Board of County Commissioners, with recommendation for award from the County Manager, user department/office and Purchasing Manager, via competitive solicitation, when not previously approved by the Board.
5. Capital Outlay and Capital Improvements: The Budget Office will submit a detailed list of proposed capital outlay items and capital improvement projects to be included in the County's Annual Operating and Capital Budget. This list will be reviewed and approved by the Board during the public hearings on the Annual Budget. The Board's approval of the County's Annual Operating and Capital Budget shall also serve as approval for County agencies to advertise the solicitation and to award based on the terms of the solicitation for tangible items, capital improvement projects and/or equipment when funding is available and within the scope, goals and mission of the Board approved County's Annual Operating and Capital Budget. This Policy also constitutes authority for the County Manager to sign the contract(s), agreement(s) incorporated into the competitive solicitation documents provided that the contract or agreement has been reviewed and approved as to form and legal content by the County Attorney's Office, Risk Management and Purchasing Services.
6. For the purposes of section 125.17, Florida Statutes, this policy authorizes the Clerk to the Board to attest to any agreements executed by the Chair of the Board of County Commissioners.
7. Approval for award by the proper authority shall act as authorization for the Purchasing Manager to release and sign a Purchase Order for the service or commodities awarded.
8. If, during a competitive solicitation or selection process, the County has received a recommendation for award or reference for a particular vendor from a state and/or federal elected official, staff shall proceed as follows:
 - a. If the award of the bid/selection is to be made by the Board of County Commissioners, copies of the local, state and/or federal elected

officials' recommendations or references shall be included as part of the Agenda Item that is presented to the Board for its consideration for the award of the bid/selection.

- b. If the award of the bid/selection is to be made by a designee as provided for under this policy, copies of the local, state and/or elected officials' recommendations *or* references shall be included as part of an Agenda Item that is presented to the Board for its review and consideration prior to the designee proceeding with final award of the bid/selection.
- I. Advertising Requirements: Adequate public notice of all the County's solicitations shall be as follows: All solicitations, unless exempted or other requirements apply under Federal or State laws or regulations, grant funding requirements, or waived by the Board, shall be advertised on the County's official website and the County's vendor platform which accepts electronic submission of the County's solicitations at least twenty-one (21) days prior to the last day set for the day of opening. The County Manager, upon recommendation by the Purchasing Manager, may shorten the twenty-one (21) day requirement to not less than seven (7) days, based on such factors as emergency need, availability of competition, amount of the acquisition, etc. Other publications may be used in addition to this requirement to reach selected markets. When warranted, the County Manager, upon recommendation by the Purchasing Manager, may authorize advertisement, regardless of the dollar amount of the acquisition, to gain additional competition that may result in lower pricing and overall cost savings to the County.
 - J. All solicitations shall define the Cone of Silence and specify who the County representative is for the specific procurement. Upon the advertisement of a solicitation, Cone of Silence shall apply only to that particular solicitation as specified in the solicitation document. The Cone of Silence shall terminate upon the issuance of a notice of award, the rejection of all responses, or the termination of the solicitation, whichever comes first. Violation of the Cone of Silence by a vendor may disqualify the vendor from participation in the solicitation process for the solicitation at hand. The Cone of Silence shall not apply to the following:
 1. A Committee Member that has on-going projects or services, which involve vendors that may be submitting proposals, conversation on those projects or services shall be carefully limited to avoid discussion of a competitive solicitation.
 2. Communications at any public proceeding or meeting, including Pre-Bid Conferences, evaluation committees, presentations or pre-award meetings.
 3. Communications during contract or agreement negotiations between designated County employees and the intended vendor.

4. Communication with a vendor by Purchasing Services staff after the vendor has provided a response to the to the solicitation to clarify the vendor's response.
 5. Communication following the filing of a protest to a solicitation between the protesting vendor or the selected vendor and Purchasing Services, County Manager's Office, and the County Attorney's Office concerning the protest.
- K. Announcement Requirements: A formal announcement shall include posting of the solicitation in various publicly accessible locations and sending the announcement to all vendors who have expressed an interest in providing those goods and services requested.
- L. In addition to other requirements as may be outlined in this Policy, when not previously authorized, Board approval is necessary for the following:
1. Waiver of or exemption from bid requirements such as permission to purchase or permission to quote when the dollar amount is above \$200,000.
 2. Sole or proprietary source, GSA Information Technology Contracts, State Contract, or other cooperative agreement procurements, as recommended by the County Manager, if above \$200,000.
 3. Awards involving a formal contract, if not expressly requested in the original permission to solicit, or not approved via the County's Annual Operating and Capital Budget, including, but not limited to, such contracts as service or maintenance agreements, awards on proposals and competitive negotiated agreements, and rentals, where the award is above \$200,000 a year and all other requirements are met. The award of the bid by the Board is sufficient for the execution of the contract by the Chair.
 4. Standardization, when determined to be more cost-effective and in the best interest of the County, above \$200,000. Standardization of materials, equipment, and/or services shall not be used as a means to circumvent the County's established competitive procurement practices.
- M. The County Manager may approve the above actions within his/her approval authority and below.
- N. The County Manager may approve awards involving a formal contract within his/her approval authority. This includes but is not limited to, service or maintenance agreements, awards on proposals, and competitive negotiated agreements and consultant agreements. Change orders to construction contracts shall follow Board Policy BCC-27, "Construction Contracts."
- O. The County Manager may reject all submitted bids, requests for proposals, or requests for qualification upon the recommendation of the department/office

director and the Purchasing Manager.

- P. Should the lowest formal competitive solicitation prove to be non-responsive to the bid specifications or non-qualified in any manner, such as financial stability, honesty, integrity, skill, business judgment, experience, facilities, and reliability, which are all necessary to ensure good faith performance, the Purchasing Manager, in conjunction with the user department/office recommendation, shall reject the non-responsive or non-qualified competitive solicitation and award to the next lowest responsive and qualified competitive solicitation. Appropriate documentation will be maintained in the official record. Any bidder, withstanding to protest such a rejection shall be afforded the right, as per the protest procedures outlined in the solicitation.
- Q. Should less than three formal bids or quotes be obtained, the County Manager, the Purchasing Manager, and the user department/office shall determine the reason for the lack of competition and maintain documentation in the official record.
- R. If one responsive bid, proposal, or reply for commodity or contractual services purchases are received, the Purchasing Manager and user department/office may negotiate on the best pricing, terms, and conditions.
- S. The following are exempt from formal advertised bid requirements; however, a competitive environment shall be maintained where feasible:
1. Emergency purchases as approved by the Board or County Manager to correct health or safety hazards or avoid interruption of essential governmental service which are deemed in the best interest of the County. Those above \$200,000 will be reported to the Board for ratification after-the-fact.
 2. Acquisition of land and/or space requirements (purchase, lease or rental).
 3. Purchases utilizing GSA IT Technology/State/Cooperative agreements.
 4. Sole Source or Proprietary purchases.
 5. Media Materials (books and film).
 6. Service or Maintenance Agreements provided by the original equipment manufacturer (OEM), or an authorized service representative(s), if not other viable alternatives are available as determined by the Purchasing Manager and user department/office. When repairs/services to existing equipment are not available by OEM or authorized service representatives, such orders will be placed with a repair service center(s) as may be selected by the County based on factors such as cost, experience, service capabilities, stock inventory, personnel

- qualifications, locale, like-unit replacement during repair, and financial stability as evidenced by trade references, audited financial statements, etc., as determined by the Purchasing Manager and user department/office. The acquisition of service/maintenance agreements shall comply with the previous acquisition requirements.
7. Use of In-County resources, such as Roadways and Landscaping services for parking lot improvements.
 8. Acquisition of vehicles and equipment via surplus auction.
 9. Property and Liability Insurance, when recommended by the Human Resources Director due to insurance market conditions and/or when delay of obtaining coverage could increase the County's risk.
 10. The purchase of or payment for utility services, including but not limited to water and sewer, electric, telephone, etc.
 11. Professional education or training of County employees.
- T. Acquisition of minor audio/video media, periodicals, small book orders, subscriptions, renewal memberships (as per Policy BCC-11, "Payment for Membership in Professional Organizations"), stamps, arts and crafts materials, software, and small miscellaneous recreation materials, less than \$1,000 in value, and approved for a public purpose, are to be processed by means of County Finance Department's "Fast Entry Invoice Direct Payment Voucher" or Purchasing Card systems as appropriate.
- U. Lease or lease purchase of tangible personal or real property is authorized, consistent with section 125.031, Florida Statutes, upon Board approval, in compliance with the restrictions in section 5.3.2. of the Brevard County Home Rule Charter. Authority is delegated to the County Manager to approve and authorize rentals necessary for the continuation of daily operations or completion of projects with total payments of \$200,000 or less per year over the term of the rental agreement and the term of the rental agreement does not exceed 5 years. Authority is delegated to the department/office director of the user department/office to approve and authorize equipment rentals with total payments of \$10,000 or less over the term of the rental agreement.
- V. The County Manager, upon recommendation from the user department/office, will determine mandatory attendance at pre-solicitation conferences, using the complexity of the solicitation, availability of competition, and dollar amount as guidelines.
- W. On all solicitations, the County Manager, upon recommendation by the Risk Manager, will establish insurance requirements based on exposure to loss. Specifically, Builder's Risk and/or Installation Floater will not be required for:
1. Renovation projects under \$100,000 except where requested by the Risk Manager. (Renovation Projects would not include any new above ground

structures).

2. Projects involving below ground structures except where requested by the Risk Manager based on exposure to loss.
 3. Projects under \$100,000 where the construction is for new above ground structures and where the contractor has agreed in writing to be responsible for any losses occurring during construction.
- X. The County Manager shall establish procedures for the processing procurement requests consistent with this Policy. A Purchasing Manual shall be developed to provide guidance for completing procurement processes necessary to ensure compliance with established Board Policies and Administrative Orders.
- Y. Contract Administration

1. All contracts shall be administered, as may be applicable, in accordance with Board Policy BCC-26, Acquisition of Consultant Professional Services; Board Policy BCC-27, Construction Contracts; and Administrative Order AO-29, Contract Administration or as amended.
2. All contract change orders, amendments, addenda and task orders shall be administered and authorized, as may be applicable, in accordance with Board Policy BCC-27, Construction Contracts; and Administrative Order AO-29, Contract Administration.
3. Board approved contracts may be amended by the County Manager in an amount up to 10% of the contract or \$200,000 whichever is lower.

Z. Grant Assistance

When the procurement involves the expenditure of state or federal assistance, grants or contract funds, the procurement shall be conducted in accordance with any applicable local, state or federal laws/regulation requirements specified in the funding/grant conditions as they pertain to the state or federal assistance grant or contract funds.

AA. E-Verification

1. In accordance with section 448.095, Florida Statutes, a public employer, may not enter into a contract with a contractor or subcontractor unless each party to the contract registers with and uses the U.S. Department of Homeland Security E-Verify System (E-Verify). For purposes of this section, a contractor is defined as a person or entity that has entered or is attempting to enter into a contract with a public employer to provide labor, supplies, or services to the public employer in exchange for salary, wages or other remuneration.
2. The County shall not enter into, or renew, a contract with a vendor/contractor that is not enrolled in E-Verify. Any vendor/contractor that has a contract with the County shall be contractually required to

utilize E-Verify to confirm the employment eligibility of any employee hired during the contract term.

3. The County shall verify the Contractor's / Vendor's participation in the E-Verify Program by confirming their enrollment on the Department of Homeland Security E-Verify Website. Vendor's/Contractor's whose participation cannot be verified on the Department of Homeland Security's E-Verify Website, shall provide acceptable evidence of their enrollment prior to award and the execution of a contract. Acceptable evidence shall include, but not be limited to, a copy of the fully executed E-Verify Memorandum of Understanding for the business.
4. A contractor who registers with and participates in the E-Verify program may not be barred or penalized under this section if, as a result of receiving inaccurate verification information from the E-Verify program, the contractor hires or employs a person who is not eligible for employment.
5. Nothing in this section may be construed to allow intentional discrimination of any class protected by law.

IV. Reservation of Authority

The authority to issue and/or revise this policy is reserved to the Board of County Commissioners.

Jason Steele, Chair
Brevard County Board of County Commissioners
As Approved by the Board on September 17,

2024.

ATTEST:

Rachel M. Sadoff, Clerk