



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.15.

10/25/2022

Subject:

Revision of BCC-25 Policy, Procurement

Fiscal Impact:

With the revision of Board Policy BCC-25, Purchasing Services will save approximately \$5,400 in advertising costs annually.

Dept/Office:

Central Services/Purchasing

Requested Action:

It is requested the Board of County Commissioners adopted the proposed revisions to BCC-25, Procurement.

Summary Explanation and Background:

The Board's Policy BCC-25 has been updated and addresses the following items:

1. Clarifies the Board's Policy Objective to maximize the value received for public funds through procurement to provide safeguards for maintaining a procurement system of quality accountability and integrity and to provide fair and equitable treatment of all persons involved in the procurement process.
2. Better defines the RFP and RFQ processes and amend the definition for Capital Outlay Item to include the change recently made to Board Policy BCC-24 that defines computer devices.
3. Adds a Cone of Silence definition relating to the solicitation process, when and how it applies, and outlines situations in the solicitation process where a Cone of Silence does not apply.
4. Updates and adjusts approval authority and purchasing thresholds for Directors, Assistant County Managers and the County Manager. The approval authority and purchasing thresholds for Directors, the County Manager, or his/her designee haven't been adjusted since 2008.
5. Authorizes County Manager to sign agreements incorporated into the Request for Bid documents or Request for Proposal for tangible items, capital improvement projects, or equipment when funding is available and within the Board's approved Annual and Capital Budget provided it is reviewed and approved by the County Attorney's Office, Risk Management and Purchasing Services.
6. Unless otherwise required by Federal and/or State laws or regulations or grant requirements modifies advertising requirements from newspaper of general circulation to the County's Official website and the County's vendor platform which accepts electronic submission of the County's solicitations. This revision will streamline the advertisement process and save approximately \$5,400 annually.
7. Modifies emergency purchase thresholds.
8. Clarifies the definition of contractor for e-verification purposes.

Clerk to the Board Instructions:



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001

Fax: (321) 264-6972

Kimberly.Powell@brevardclerk.us

October 26, 2022

MEMORANDUM

TO: Frank Abbate, County Manager

RE: Item F.15., Revision of BCC-25 Policy, Procurement

The Board of County Commissioners, in regular session on October 25, 2022, approved the proposed revisions to BCC-25 Policy, Procurement. Enclosed is the fully-executed Policy.

Your continued cooperation is always appreciated.

Sincerely,

**BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK**

for Donna Scott
for: Kimberly Powell, Clerk to the Board

/ds

Encl. (1)

cc: Central Services
Finance
Budget



BOARD OF COUNTY COMMISSIONERS

POLICY

Number: BCC-25
Cancels: 03/08/2022
Approved: 10/25/2022
Originator: Purchasing Services
Review: 10/25/2025

TITLE: PROCUREMENT

I. Objective

The Objective of the Policy is to maximize the value received for public funds through procurement to provide safeguards for maintaining a procurement system of quality accountability and integrity, and to provide for 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 \$75,000 or above 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 in excess of \$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 Statute, including the, "Consultants' Competitive Negotiation Act," and 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, or Department 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. **Equipment Rental:** An agreement for temporary lease of equipment where total payments over the term of the agreement are \$10,000 or less and the term of the agreement is one year or less. There is no accumulation of equity and no provision for the buyout of the leased equipment.
- K. **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.
- L. **Formal Quote:** A formal written and sealed response to a formal announcement for specified requirements of \$25,000 and up to \$75,000 in value.
- M. **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.
- N. **Informal Quote:** A written quote by a vendor to furnish the County specific goods and/or services at a stated price, quantity, quality, and delivery timeframe up to \$25,000 in value. All informal quotes of \$1,000.00 up to \$25,000 shall be obtained in writing. All quotations shall be documented and retained by the user department/agency and referenced on all purchase requisitions.
- O. **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 for fixed payments. Under a straight lease, there is no accumulation of equity and no provision for the buyout of the leased property.

- P. **Lease Purchase:** A lease contract with terms providing for the option to transfer title during or at the end of the lease term.
- Q. **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.
- R. **Purchasing Card:** An accounts payable mechanism, which utilizes credit card infrastructure for the purchase of goods and/or services.
- S. **Purchasing Manual:** A document that describes rules, regulations, and procedures to be followed by Purchasing Services and the departments/offices it serves.
- T. **Purchase Order:** A written instrument under which a vendor agrees to provide goods or services to a purchaser on a demand or as needed basis; the purchase order generally establishes a maximum dollar limit, prices, terms, conditions, and the period covered, with no specified quantities; shipments are to be made as required by the purchaser. An open-end purchase order may be used as a release and encumbrance document to authorize a department/office to order any predetermined amount from an open-end 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.
- U. **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 evaluation of the proposal is not on price alone..
- V. **Request for Qualification:** 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 price, are later negotiated.
- W. **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 responsive and responsible vendor(s).
- X. **Responsive Bidder or Proposer:** A vendor who has submitted a bid or proposal which 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.

- Y. **Service/Maintenance Agreements:** Contractual documents detailing specifications under which the vendor will provide maintenance/service to equipment in the possession of the County.
- Z. **Sole Source/Single Source/Proprietary Purchase:** Only known existing source, or only one viable source, for those procurements, which meets the needs of the user department as determined by a reasonably thorough analysis of the marketplace. 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/framework purchase orders.

- G. Small purchases of less than \$1,000 cumulative total which are not covered under a bid agreement have no mandatory quotation or bid requirements.
- H. Every reasonable effort shall be made to solicit at least three (3) responsive quotes/bids from qualified sources for purchasing thresholds referenced in this section. The requisitioning approval authority, award authority and payment approval authority based on annual cumulative amounts shall be according to the thresholds below. Splitting of requisitions to circumvent competition required at established thresholds is prohibited.
 - 1. \$1,000 and up to \$25,000: Department/Office Directors via informal quote as defined in Section II.N, up to \$50,000 via formal quote, as defined in Section II.L., solicited by Purchasing Services.
 - 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 Formal Quote/Bid/Proposal.
 - 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 Formal Quote/Bid/Proposal.
 - 4. Above \$200,000: Board of County Commissioners, with recommendation for award from the County Manager, user department/office and Purchasing Manager, via Bid/Proposal, 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 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 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 and Capital Budget. This Policy also constitutes authority for the County Manager to sign the agreement(s) incorporated into the Request for Bid documents or Request for Proposal, provided that 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 bidding 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 requirement 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 committee, 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. Awards when the staff recommendation is protested by vendor(s) with standing to protest.
 3. 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.
 4. Awards involving a formal contract, if not expressly requested in the original permission to solicit, or not approved via the County's Annual 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 and all other requirements are met. The award of the bid by the Board is sufficient for execution of the contract by the Chair.
 5. 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.
 6. Rejection of all submitted bids or proposals above \$200,000.

- 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 BCC-27, Construction Contracts.
- O. Should the lowest formal bidder or quoter 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 insure good faith performance, the Purchasing Manager, in conjunction with the user department/office recommendation, shall reject the bid or quote and award to the next lowest responsive and qualified bidder or quoter. Appropriate documentation will be maintained in the official record. Any bidder, with standing to protest such a rejection, shall be afforded the right, as per the protest procedures outlined in the Purchasing Manual. If unresolved, the final step shall be before the Board.
- P. Should less than three formal bids or quotes be obtained, the County Manager, the Purchasing Manager and user department/office shall determine the reason for lack of competition and maintain documentation in the official record. Formal reporting to the Board or the County Manager, as applicable, will be made on an annual basis.
- Q. If less than two responsive bids, proposals, or replies for commodity or contractual services purchases are received, the Purchasing Manager and department/office may negotiate on the best pricing, terms and conditions.
- R. 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 agency. The acquisition of service/maintenance agreements shall comply with the acquisition requirements stated previously.
 7. Usage 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.
- S. Acquisition of minor audio/video media, periodicals, small book orders, subscriptions, renewal memberships (as per Policy BCC-11), 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.
- T. 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 County Charter. Authority is delegated to the County Manager to approve and authorize equipment rentals necessary for continuation of daily operations or completion of projects with total payments of \$100,000 or less over the term of the rental agreement and the term of the rental agreement does not exceed one year. 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.
- U. The County Manager, upon recommendation from the user department/office, will determine mandatory attendance at pre-solicitation conferences, using complexity of the solicitation, availability of competition and dollar amount as guidelines.

V. 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.

W. The County Manager shall establish procedures for the processing of procurement requests consistent with this Policy. A Purchasing Manual shall be developed to provide guidance for the completion of procurement processes necessary to ensure compliance with established Board Policies and Administrative Orders.

X. 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.

Y. Grant Assistance

1. 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.

Z. 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

renumeration.

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.



Kristine Zonka, Chair
Brevard County Board of County Commissioners
As Approved by the Board on October 25, 2022

ATTEST:



Rachel M. Sadoff, Clerk



BOARD OF COUNTY COMMISSIONERS

POLICY

Number: BCC-25
Cancels: 03/08/2022
Approved: 10/25/2022
Originator: Purchasing Services
Review: 10/25/2025

TITLE: PROCUREMENT

I. Objective

The Objective of the Policy is to maximize the value received for public funds through procurement to provide safeguards for maintaining a procurement system of quality accountability and integrity, and to provide for fair and equitable treatment of all persons involved in public procurement. To specify Board directives for procurement activities by the Board of County Commissioners and its employees. The intent of this policy is to clearly identify the authority levels for approval, award and payment and provide accountability for procurements.

II. Definitions and References

A. **Bid:** A formal written and sealed response to a formal advertisement for specified requirements of \$50,00075,000 or above in value.

~~B. **Open/Framework Purchase Order:** A purchase order under which a vendor agrees to provide goods or services to a purchaser on a demand or as-needed basis; the purchase order generally establishes a maximum dollar limit, prices, terms, conditions, and the period covered, with no specified quantities; shipments are to be made as required by the purchaser. An open-end purchase order may be used as a release and encumbrance document to authorize an agency to order any predetermined amount from an open-end contract on an as-needed basis.~~

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 ~~equipment~~ devices valued in excess of \$750500.

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. **Competitive Negotiated Agreement:** Established price or schedule of prices based primarily on evaluation of performance, level of service and price by Committee review.~~

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

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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, or Department Director, is presumed to include that person's official designee as if the Policy read "Board of County Commissioners or designee."

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agreement is one year or less. There is no accumulation of equity and no provision for the buyout of the leased equipment.

J.K. **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.L. **Formal Quote:** A formal written and sealed response to a formal announcement for specified requirements of \$15,000~~25,000~~ and ~~less than~~up to \$50,000~~75,000~~ in value.

L.M. **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.

N. **Informal Quote:** A written quote by a vendor to furnish the County specific goods and/or services at a stated price, quantity, quality, and delivery timeframe up to \$25,000 in value. All informal quotes of \$1,000.00 up to \$25,000 shall be obtained in writing. All quotations shall be documented and retained by the user department/agency and referenced on all purchase requisitions.

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N.P. **Lease Purchase:** A lease contract with terms providing for the option to transfer title during or at the end of the lease term.

Q. **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.

R. **Purchasing Card:** An accounts payable mechanism, which utilizes credit card infrastructure for the purchase of goods and/or services.

S. **Purchasing Manual:** A document that describes rules, regulations, policies and procedures to be followed by the purchasing organization~~Purchasing Services and the agencies/departments~~departments/offices it serves.

T. **Purchase Order:** A written instrument under which a vendor agrees to provide goods or services to a purchaser on a demand or as needed basis; the purchase order generally establishes a maximum dollar limit, prices, terms, conditions, and

the period covered, with no specified quantities; shipments are to be made as required by the purchaser. An open-end purchase order may be used as a release and encumbrance document to authorize a department/office to order any predetermined amount from an open-end 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.

~~Q.~~

U. Request for Proposal (RFP): A formal written ~~and sealed response to a solicitation (RFP)~~ 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 evaluation of the proposal is not on price alone, scope of work, specifications or contractual terms and conditions cannot reasonably be closely defined evaluation of a proposal may be based on prior established criteria wherein the RFP shall state the relative importance of price and other evaluation factors and/or criteria.

P.V. Request for Qualification: 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 price, are later negotiated.

~~**Purchase Order:** The County's document used to authorize a purchase transaction with a vendor, generally used for one-time purchases, which contains provisions for goods and/or services ordered, applicable terms as to payment, discounts, date of performance, transportation and other factors or conditions relating to the transaction. Acceptance of a purchase order by a vendor shall constitute a contract, except in instances in which a purchase order is used only as an internal encumbrance document.~~

~~Q.~~

~~**R.A. Purchasing Manual:** A document that describes rules, regulations, policies and procedures to be followed by the purchasing organization and the agencies/departments it serves.~~

S.W. 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 responsive and responsible vendor(s).

~~**T. Informal Quote:** Any telephonic, written or verbal offer by a vendor to furnish the County specific goods and/or services at a stated price, quantity, quality, and~~

~~delivery timeframe up to \$15,000 in value. All informal quotes of \$1,000.00 up to \$15,000.00 shall be obtained in writing. All quotations shall be documented and retained by the user department/agency and referenced on all purchase requisitions.~~

~~U. **Equipment Rental:** An agreement for temporary lease of equipment where total payments over the term of the agreement are \$5,000 or less and the term of the agreement is one year or less. There is no accumulation of equity and no provision for the buyout of the leased equipment.~~

~~V.X.~~ **Responsive Bidder or Proposer:** A ~~vendor bidder or proposer~~ who has submitted a bid or proposal which 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.Y.~~ **Service/Maintenance Agreements:** Contractual documents detailing specifications under which the vendor will provide maintenance/service to equipment in the possession of the County.

~~X.Z.~~ **Sole Source/Single Source/Proprietary Purchase:** Only known existing source, or only one viable source, for those procurements, which meets the needs of the user department as determined by a reasonably thorough analysis of the marketplace. 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 ~~shall~~may be purchased by multiple-source competitive practices when availablea 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 ~~shall~~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/framework purchase orders.
- G. Small purchases of less than \$1,000 cumulative total which are not covered under a bid agreement have no mandatory quotation or bid requirements.
- H. Every reasonable effort shall be made to solicit at least three (3) responsive quotes/bids and from qualified sources for purchasing thresholds referenced in this section. The requisitioning approval authority, award authority and payment approval authority based on annual cumulative amounts shall be according to the thresholds below. Splitting of requisitions to circumvent competition required at established thresholds is ~~not-allowed~~prohibited.
 - 1. \$1,000 and up to ~~\$25,000~~: Department/~~Office Directors Head~~ via informal quote as defined in Section II.~~FN~~, up to \$50,000 via formal quote, as defined in Section II.~~KL~~.
 - 2. Up to ~~\$50,000~~100,000: Assistant County Manager with recommendation for award from the user ~~agency~~department/office and Purchasing Manager or selection committee, as appropriate, via Formal Quote/Bid/Proposal.
 - 3. Up to ~~\$100,000~~200,000: County Manager with recommendation for award from the user ~~agency~~department/office and Purchasing Manager or selection committee, as appropriate, via Formal Quote/Bid/Proposal.
 - 4. ~~Above \$100,000~~200,000 and above: Board of County Commissioners, with recommendation for award from the County Manager, user ~~agency~~department/office and Purchasing Manager, via Bid/Proposal/~~Competitive Negotiated Agreement~~, 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 equipment capital improvement projects to be included in the annual capital budget~~County's~~

Annual and Capital Budget. This list will be reviewed and approved by the Board ~~of County Commissioners~~ during the public hearings on the ~~annual~~ Annual Budget. ~~The~~ Board's approval of the ~~Annual Budget and Capital Improvement Plan~~ County's Annual and Capital Budget shall also serve as approval for County agencies to advertise ~~formal~~ the solicitation of bids and proposals; and to award ~~to the based of the terms of the solicitation~~ qualified bidder having the lowest, responsible and best bid for tangible items, capital improvement projects and/or equipment when funding is available and within the scope, goals and mission of the Board approved ~~Annual Budget and Capital Improvements Plan~~ County's Annual and Capital Budget. ~~Because a qualified bidder with the lowest, responsible and best bid is generally entitled to an award of bid and an award of bid has been construed to constitute an enforceable agreement, this~~ This P-policy also constitutes authority for the ~~Chair~~ County Manager to sign the agreement(s) incorporated into the Request for Bid documents or Request for Proposal, provided that agreement has been reviewed and approved ~~by the County Manager or his designee, and approved~~ as to form and legal content by the County Attorney's Office, Risk Management and Purchasing Services.

~~6. The Board must approve the financial terms of all agreements that 1) arise out of the acceptance of a request for proposal or 2) that are negotiated in accordance with the Consultant's Competitive Negotiation Act set forth in section 287.055, Florida Statutes or any successor statute thereto.~~

~~7.6.~~ 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. ~~in accordance with the procedures set forth in subparagraphs 4 and 5 above.~~

~~8.7.~~ 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.

~~9.8.~~ If, during a competitive bidding 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 requirement 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 ~~An advertisement shall be published once in a newspaper of general paid circulation which is published at least five (5) days a week in the County. The advertisement shall appear 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 committee, 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.

J.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.

K.L. In addition to other requirements as may be outlined in this policy, when not previously authorized, Board approval is necessary ~~on 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 \$100,000~~ above \$200,000 or above.
2. Awards when the staff recommendation is protested by vendor(s) with standing to protest.
3. Sole or proprietary source, GSA Information Technology Contracts, State Contract or other cooperative agreement procurements, as recommended by the County Manager, if ~~above \$100,000~~ above \$200,000 or above.
4. Awards involving a formal contract, if not expressly ~~asked requested for~~ in the original permission to ~~bidsolicit~~, or not approved via the County's Annual and Capital Budget ~~Capital Improvement Plan~~, 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 \$100,000~~ above \$200,000 or above and all other requirements are met. The award of the bid by the Board is sufficient for execution of the contract by the Chair.
5. Standardization, when determined to be more cost effective and in the best interest of the County, ~~above when \$100,000~~ above when \$200,000 or above. Standardization of materials, equipment, and/or services shall not be used as a means to circumvent the County's established competitive procurement practices.
6. Rejection of all submitted bids or proposals ~~above \$100,000~~ above \$200,000 or above.

L.M. The County Manager may approve the above actions within his/her approval authority and below.

M.N. The County Manager may approve awards involving a formal contract within his/her approval authority ~~and below~~. 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 BCC-27, Construction Contracts.

N.O. Should the lowest formal bidder or quoter 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 insure good faith performance, the Purchasing Manager, in conjunction with the user ~~agency-department/office~~ recommendation, shall reject the bid or quote and award to the next lowest responsive and qualified bidder or quoter. Appropriate documentation will be maintained in the official record. Any bidder, with standing to protest such a rejection, shall be afforded the right ~~to appear before the Board of County Commissioners~~, as per the protest procedures outlined in the Purchasing Manual. ~~If unresolved, the final step shall be before the Board. Formal reporting to the Board or County Manager, as applicable, of rejected bids or quotes will be made on an annual basis.~~

Q.P. Should less than three formal bids or quotes be obtained, the County Manager, the Purchasing Manager and user ~~agency-department/office~~ shall determine the reason for lack of competition and maintain documentation in the official record. Formal reporting to the Board or the County Manager, as applicable, will be made on an annual basis.

P.Q. If less than two responsive bids, proposals, or replies for commodity or contractual services purchases are received, the Purchasing Manager and ~~User-department/officeAgency~~ may negotiate on the best pricing, terms and conditions.

Q.R. 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 ~~causes avoid~~ interruption of essential governmental service ~~and which~~ are deemed in the best interest of the County. Those ~~above \$100,000~~ 200,000 or above 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 ~~agency~~ department/office. When repairs/services to existing equipment ~~may are not be~~ available, ~~nor provided~~ 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 agency. The acquisition of service/maintenance agreements shall comply with the acquisition requirements stated previously.

7. Usage 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.

R.S. Acquisition of minor audio/video media, periodicals, small book orders, subscriptions, renewal memberships (as per Policy BCC-11), 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.

S.T. Lease or lease purchase of tangible personal or real property is authorized, consistent with Florida Statute section 125.031, Florida Statutes, upon Board approval, regardless of dollar amount in compliance with the restrictions in section 5.3.2. of the County Charter. Authority is delegated to the County ~~manager~~ Manager to approve and authorize equipment rentals necessary for continuation of daily operations or completion of projects with total payments of ~~\$50,000~~ 100,000 or less over the term of the rental agreement and the term of the rental agreement does not exceed one year. Authority is delegated to the ~~head department/office director~~ of the user agency department/office to approve and authorize equipment rentals with total payments of ~~\$5,000~~ 10,000 or less over the term of the rental agreement.

T.U. The County Manager, upon recommendation from the user ~~agency~~ department/office, will determine mandatory attendance at pre-solicitation conferences, using complexity of the solicitation, availability of competition and dollar amount as guidelines.

U.V. 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 ~~\$50,000~~ 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 ~~\$35,000~~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.

V.W. The County Manager shall establish procedures for the processing of procurement requests consistent with this Policy. A Purchasing Manual shall be developed to provide guidance for the completion of procurement processes necessary to ensure compliance with established Board Policies~~policy~~ and Administrative Orders.

W.X. 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 ~~\$5,000 annually~~ or 10% of the contract or \$200,000 -value whichever is lower~~whichever is lower~~.

X.Y. Grant Assistance

1. 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.

Y.Z. E-Verification

1. In accordance with ~~Florida Statute Chapter~~section 448.095, Florida Statutes, ~~a~~A public employer, ~~contractor, or subcontractor~~ 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.

Kristine Zonka, Chair
Brevard County Board of County Commissioners
As Approved by the Board on ~~March 8~~ October 25,

|
2022

ATTEST:

Rachel M. Sadoff, Clerk