



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.13.

12/8/2020

Subject:

BCC Policy 25, Procurement - Revision to Policy Regarding E-Verify Policy

Fiscal Impact:

None

Dept/Office:

Central Services / Purchasing Services

Requested Action:

It is requested the Board of County Commissioners approved the revised policy BCC-25 Procurement as attached.

Summary Explanation and Background:

January 1, 2021 Florida Statute 448.095, Employment Eligibility becomes effective. Florida Statute 448.095 requires that every public employer, contractor, and subcontractor shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees. A public employer, contractor, or subcontractor may not enter into a contract unless each party to the contract registers with and uses the E-Verify system.

Since 2018 the County has required the use of E-Verify as a condition to contracting with the County. The County's current policy includes 4 exceptions to the requirement. Florida Statute 448.095 does not allow for any exception to the policy and as such, the County policy requires revision.

The revisions to the policy include:

- Revision to Dates as required
- A reference to Florida Statute 448.095 in Section II. Paragraph J.
- Revision to Section V. E-Verify adding language from Florida Statute 448.095 and removing all exceptions to the policy

While the revised policy is being presented to the Board during this meeting on December 8, 2020; the revisions to the policy are not effective until January 1, 2021

Clerk to the Board Instructions:

Upon execution and attesting, please send original to County Manager's Office



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

December 9, 2020

M E M O R A N D U M

TO: Frank Abbate, County Manager

RE: Item F.13., BCC Policy 25, Procurement – Revision to Policy Regarding E-Verify Policy

The Board of County Commissioners, in regular session on December 8, 2020, approved the revised policy BCC-25 Procurement. Enclosed is a fully-executed original Policy.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

A handwritten signature in cursive script that reads "Kimberly Powell".

Kimberly Powell, Clerk to the Board

/sm

Encl. (1)

cc: Central Services
Purchasing
Finance
Budget



POLICY

TITLE: PROCUREMENT

NUMBER: BCC-25
AMENDS: January 7, 2020
APPROVED: December 8, 2020
ORIGINATOR: Purchasing Services
REVIEW: December 8, 2023

I. OBJECTIVE

To specify Board directives for procurement activities. 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 \$50,000 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.
- C. **Capital Outlay Item:** Equipment with a value in excess of \$1000 and an expected life of more than one year such as automobiles, furniture, and computer equipment valued in excess of \$750.
- 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.
- F. **Consultant Agreements:** Professional services agreements governed by F.S. 287.055, "Consultants' Competitive Negotiation Act" and BCC-26, Acquisition of Consultant Professional Services.
- G. **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.
- 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. **Contract:** Contract means all types of binding agreements, regardless of what they may be called, for the procurement or disposal of supplies, services or construction.

- J. **Florida Statutes:** Chapters 286.011, 286.0113, 218.70 et.seq., 218.80, Chapter 255 and Chapter 287, Procurement of Personal Property and Services and Chapter 448.095 Employment Eligibility.
- K. **Formal Quote:** A formal written and sealed response to a formal announcement for specified requirements of \$15,000 and less than \$50,000 in value.
- L. **Grant** (for the purposes of this policy): An award of which includes assistance in the form of money, property, services, etc., by a source which includes the federal government, state government, other local governments, non-profit agencies, private businesses and citizens.
- 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 for 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. **Purchasing Card:** An accounts payable mechanism, which utilizes credit card infrastructure for the purchase of goods and/or services.
- P. **Proposal:** A formal written and sealed response to a solicitation (RFP) for a good and/or service for which the 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.
- Q. **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.
- R. **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. **Qualified Bidder or Proposer:** The best bidder or proposer who has the capability in all respects to fully perform the bid or RFP requirements, and has the financial stability, honesty, integrity, skill, business judgment, experience, facilities, and reliability necessary to assure good faith performance of the contract, as determined by reference to the Contractor's Qualification Statement, evaluations by County staff of the bidder or proposer or its subcontractors' past performance for the Board, and any other information required by Board policies and Administrative Orders.
- 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. **Responsive Bidder or Proposer:** A 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. **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 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 goods and/or services, and all purchases shall be for a public purpose and in accordance with this policy unless otherwise exempt under this policy.
- B. Materials or services shall be purchased by multiple-source competitive practices when available. Cooperative bidding, to include purchasing from State, and/or other authorized joint purchase agreements shall be used to reduce administrative costs for high use, consumable items.
- C. 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.
- D. Small purchases of less than \$1000 cumulative total which are not covered under a bid agreement have no mandatory quotation or bid requirements.
- E. Every effort shall be made to solicit at least three (3) responsive and 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.
 - 1. \$1000 and up to \$25,000: Department Head via informal quote as defined in Section II. T or via formal quote, as defined in Section II.K, solicited by Purchasing Services.
 - 2. Up to \$50,000: Assistant County Manager with recommendation for award from the user agency and Purchasing Manager or selection committee, as appropriate, via Formal Quote/Bid/Proposal.
 - 3. Up to \$100,000: County Manager with recommendation for award from the user agency and Purchasing Manager or selection committee, as appropriate, via Formal Quote/Bid/Proposal.
 - 4. \$100,000 and above: Board of County Commissioners, with recommendation for award from the County Manager, user agency 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 to be included in the annual capital budget. This list will be reviewed and approved by the Board of County Commissioners during the public hearings on the annual Budget. Board approval of the Annual Budget and Capital Improvement Plan shall also serve as approval for County agencies to advertise formal solicitation of bids and proposals; and to award to the 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. 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 policy also constitutes authority for the Chair 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.
 - 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. 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 in accordance with the procedures set forth in subparagraphs 4 and 5 above.
 - 8. 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. 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.
- F. Advertising Requirements: 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.
- G. 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.
- H. In addition to other requirements as may be outlined in this policy, when not previously authorized Board approval is necessary on the following:
 1. Waiver of or exemption from bid requirements such as permission to purchase, or permission to quote, when the dollar amount is \$100,000 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 \$100,000 or above.
 4. Awards involving a formal contract, if not expressly asked for in the original permission to bid, or not approved via the 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 \$100,000 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 Chairman.
 5. Standardization, when determined to be more cost effective and in the best interest of the County, when \$100,000 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 \$100,000 or above.
- I. The County Manager may approve the above actions within his/her approval authority and below.
- J. 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.
- K. 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 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.

Formal reporting to the Board or County Manager, as applicable, of rejected bids or quotes will be made on an annual basis.

- L. Should less than three formal bids or quotes be obtained, the County Manager the Purchasing Manager and user agency 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.
- M. If less than two responsive bids, proposals, or replies for commodity or contractual services purchases are received, the Purchasing Manager and User Agency may negotiate on the best pricing, terms and conditions.
- N. 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, County Manager to correct health or safety hazards or causes interruption of essential governmental service and are deemed in the best interest of the County. Those \$100,000 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. When repairs/services to existing equipment may 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.
- O. 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 \$1000 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.
- P. Lease or lease purchase of tangible personal or real property is authorized, consistent with Florida Statute 125.031, upon Board approval, regardless of dollar amount. 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 \$50,000 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 of the user agency to approve and authorize equipment rentals with total payments of \$5,000 or less over the term of the rental agreement. (R)
- Q. The County Manager, upon recommendation from the user agency, will determine mandatory attendance at pre-solicitation conferences, using complexity of the solicitation, availability of competition and dollar amount as guidelines.
- R. 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 will not be required for:
 - 1. Renovation projects under \$50,000 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 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


- S. 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 policy and Administrative Orders.
- T. Contract Administration
1. All contracts shall be administered, as may be applicable, in accordance with Board Policy BCC-26, Acquisition of Consultant Professional Services; 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 value whichever is lower.
- U. 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.
- V. E-Verification
1. In accordance with Florida Statute Chapter 448.095, A public employer, contractor, or subcontractor may not enter into a contract unless each party to the contract registers with and uses the E-Verify System.
 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 or revise this Policy is reserved to the Board of County Commissioners.

ATTEST:


Scott Ellis, Clerk


Rita Pritchett, Chair
Brevard County, Florida
Board of County Commissioners
As Approved by the Board on December 8, 2020

POLICY

TITLE: PROCUREMENT

NUMBER: BCC-25

AMENDS: July 9, 2019

APPROVED: January 7, 2020

ORIGINATOR: Purchasing Services

REVIEW: January 7, 2023

I. **OBJECTIVE**

To specify Board directives for procurement activities. 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 \$50,000 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.
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- 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.
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 - 3. Up to \$100,000: County Manager with recommendation for award from the user agency and Purchasing Manager or selection committee, as appropriate, via Formal Quote/Bid/Proposal.
 - 4. \$100,000 and above: Board of County Commissioners, with recommendation for award from the County Manager, user agency and Purchasing Manager, via Bid/Proposal/Competitive Negotiated Agreement, when not previously approved by the Board.
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 - 8. 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. 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.
- F. Advertising Requirements: 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.
- G. 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.
- H. In addition to other requirements as may be outlined in this policy, when not previously authorized Board approval is necessary on the following:
 1. Waiver of or exemption from bid requirements such as permission to purchase, or permission to quote, when the dollar amount is \$100,000 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 \$100,000 or above.
 4. Awards involving a formal contract, if not expressly asked for in the original permission to bid, or not approved via the 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 \$100,000 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 Chairman.
 5. Standardization, when determined to be more cost effective and in the best interest of the County, when \$100,000 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 \$100,000 or above.
- I. The County Manager may approve the above actions within his/her approval authority and below.
- J. 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.
- K. 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 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.

Formal reporting to the Board or County Manager, as applicable, of rejected bids or quotes will be made on an annual basis.

- L. Should less than three formal bids or quotes be obtained, the County Manager the Purchasing Manager and user agency 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.
- M. If less than two responsive bids, proposals, or replies for commodity or contractual services purchases are received, the Purchasing Manager and User Agency may negotiate on the best pricing, terms and conditions.
- N. 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, County Manager to correct health or safety hazards or causes interruption of essential governmental service and are deemed in the best interest of the County. Those \$100,000 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. When repairs/services to existing equipment may 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.
- O. 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 \$1000 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.
- P. Lease or lease purchase of tangible personal or real property is authorized, consistent with Florida Statute 125.031, upon Board approval, regardless of dollar amount. 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 \$50,000 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 of the user agency to approve and authorize equipment rentals with total payments of \$5,000 or less over the term of the rental agreement. (R)
- Q. The County Manager, upon recommendation from the user agency, will determine mandatory attendance at pre-solicitation conferences, using complexity of the solicitation, availability of competition and dollar amount as guidelines.
- R. 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 will not be required for:
 - 1. Renovation projects under \$50,000 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 where the construction is for new above ground structures and where the

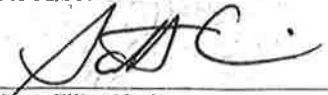
contractor has agreed in writing to be responsible for any losses occurring during construction

- S. 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 policy and Administrative Orders.
- T. Contract Administration
 - 1. All contracts shall be administered, as may be applicable, in accordance with Board Policy BCC-26, Acquisition of Consultant Professional Services; 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 value whichever is lower.
- U. 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.
- V. E-Verification
 - 1. The County shall not enter into, or renew, a contract for goods or services with a vendor/contractor that is not enrolled in E-Verify. Any vendor/contractor providing goods or services to the County shall be contractually required to utilize E-Verify to confirm the employment eligibility of any employee hired during the contract term.
 - 2. 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.
 - 3. All vendors/contractors must meet this requirement, unless:
 - a. the contract is solely for goods-based procurement where no services are provided; or
 - b. where the requirement is waived by the Board of County Commissioners;
 - c. the contract is being executed with a Sole Proprietor who does not hire employees and therefore not required to file a Department of Homeland Security Form I-9 (which is the necessary document used for performing an E-verify search) or
 - d. the contract is being executed with a company based outside of the United States of America and does not have a corporation or office located within the United States of America and does not employ any United States of America citizens.
 - 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 or revise this Policy is reserved to the Board of County Commissioners.

ATTEST:



Scott Ellis, Clerk



Bryan Cober, Chair
Brevard County, Florida
Board of County Commissioners
Approved by the Board, on January 7, 2020

448.095 Employment eligibility.—

(1) DEFINITIONS.—As used in this section, the term:

(a) “Agency” means any agency, department, board, or commission of this state or a county or municipality in this state that issues a license to operate a business in this state.

(b) “Contractor” means 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 such employer in exchange for salary, wages, or other remuneration.

(c) “Department” means the Department of Economic Opportunity.

(d) “Employee” means a person filling an authorized and established position who performs labor or services for a public or private employer in exchange for salary, wages, or other remuneration.

(e) “E-Verify system” means an Internet-based system operated by the United States Department of Homeland Security that allows participating employers to electronically verify the employment eligibility of newly hired employees.

(f) “Legal alien” means a person who is or was lawfully present or permanently residing legally in the United States and allowed to work at the time of employment and remains so throughout the duration of that employment.

(g) “License” means a franchise, a permit, a certificate, an approval, a registration, a charter, or any similar form of authorization required by state law and issued by an agency for the purpose of operating a business in this state. The term includes, but is not limited to:

1. An article of incorporation.
2. A certificate of partnership, a partnership registration, or an article of organization.
3. A grant of authority issued pursuant to state or federal law.
4. A transaction privilege tax license.

(h) “Private employer” means a person or entity that transacts business in this state, has a license issued by an agency, and employs persons to perform labor or services in this state in exchange for salary, wages, or other remuneration. The term does not include:

1. A public employer;
2. The occupant or owner of a private residence who hires:
 - a. Casual labor, as defined in s. 443.036, to be performed entirely within the private residence; or
 - b. A licensed independent contractor, as defined in federal laws or regulations, to perform a specified portion of labor or services; or
3. An employee leasing company licensed under part XI of chapter 468 that enters into a written agreement or understanding with a client company which places the primary obligation for compliance with this section upon the client company. In the absence of a written agreement or understanding, the employee leasing company is responsible for compliance with this section. Such employee leasing company shall, at all times, remain an employer as otherwise defined in federal laws or regulations.

(i) “Public employer” means an entity within state, regional, county, local, or municipal government, whether executive, judicial, or legislative, or any public school, community college, or state university that employs persons who perform labor or services for that employer in exchange for salary, wages, or other remuneration or that enters or attempts to enter into a contract with a contractor.

(j) “Subcontractor” means a person or entity that provides labor, supplies, or services to or for a contractor or another subcontractor in exchange for salary, wages, or other remuneration.

(k) “Unauthorized alien” means a person who is not authorized under federal law to be employed in the United States, as described in 8 U.S.C. s. 1324a(h)(3). The term shall be interpreted consistently with that section and any applicable federal rules or regulations.

(2) PUBLIC EMPLOYERS, CONTRACTORS, AND SUBCONTRACTORS.—

(a) Beginning January 1, 2021, every public employer, contractor, and subcontractor shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees. A public employer, contractor, or subcontractor may not enter into a contract unless each party to the contract registers with and uses the E-Verify system.

(b)1. If a contractor enters into a contract with a subcontractor, the subcontractor must provide the contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien.

2. The contractor shall maintain a copy of such affidavit for the duration of the contract.

(c)1. A public employer, contractor, or subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated s. 448.09(1) shall terminate the contract with the person or entity.

2. A public employer that has a good faith belief that a subcontractor knowingly violated this subsection, but the contractor otherwise complied with this subsection, shall promptly notify the contractor and order the contractor to immediately terminate the contract with the subcontractor.

3. A contract terminated under subparagraph 1. or subparagraph 2. is not a breach of contract and may not be considered as such.

(d) A public employer, contractor, or subcontractor may file an action with a circuit or county court to challenge a termination under paragraph (c) no later than 20 calendar days after the date on which the contract was terminated.

(e) If a public employer terminates a contract with a contractor under paragraph (c), the contractor may not be awarded a public contract for at least 1 year after the date on which the contract was terminated.

(f) A contractor is liable for any additional costs incurred by a public employer as a result of the termination of a contract.

(3) PRIVATE EMPLOYERS.—

(a) Beginning January 1, 2021, a private employer shall, after making an offer of employment which has been accepted by a person, verify such person's employment eligibility. A private employer is not required to verify the employment eligibility of a continuing employee hired before January 1, 2021. However, if a person is a contract employee retained by a private employer, the private employer must verify the employee's employment eligibility upon the renewal or extension of his or her contract.

(b) A private employer shall verify a person's employment eligibility by:

1. Using the E-Verify system; or

2. Requiring the person to provide the same documentation that is required by the United States Citizenship and Immigration Services on its Employment Eligibility Verification form (Form I-9). The private employer must retain a copy of the documentation provided under this subparagraph for at least 3 years after the person's initial date of employment.

(c) A private employer that complies with this subsection may not be held civilly or criminally liable under state law for hiring, continuing to employ, or refusing to hire an unauthorized alien if the information obtained under paragraph (b) indicates that the person's work authorization status was not that of an unauthorized alien.

(d) For purposes of this subsection, compliance with paragraph (b) creates a rebuttable presumption that a private employer did not knowingly employ an unauthorized alien in violation of s. 448.09(1).

(e) For the purpose of enforcement of this section, the following persons or entities may request, and a private employer must provide, copies of any documentation relied upon by the private employer for the verification of a person's employment eligibility, including, but not limited to, any documentation required under paragraph (b):

1. The Department of Law Enforcement.
2. The Attorney General.
3. The state attorney.
4. The statewide prosecutor.

A person or entity that makes a request under this paragraph must rely upon the federal government to verify a person's employment eligibility and may not independently make a final determination as to whether a person is an unauthorized alien.

(f) If a private employer does not comply with paragraph (b), the department shall require the private employer to provide an affidavit to the department stating that the private employer will comply with paragraph (b), the private employer has terminated the employment of all unauthorized aliens in this state, and the employer will not intentionally or knowingly employ an unauthorized alien in this state. If the private employer does not provide the required affidavit within 30 days after the department's request, the appropriate licensing agency shall suspend all

applicable licenses held by the private employer until the private employer provides the department with the required affidavit. For purposes of this paragraph, the licenses that are subject to suspension under this paragraph are all licenses that are held by the private employer specific to the business location where the unauthorized alien performed work. If the private employer does not hold a license specific to the business location where the unauthorized alien performed work, but a license is necessary to operate the private employer's business in general, the licenses that are subject to suspension under this paragraph are all licenses that are held by the private employer at the private employer's primary place of business.

(g) For any private employer found to have violated paragraph (f) three times within any 36 month period, the appropriate licensing agency shall permanently revoke all licenses that are held by the private employer specific to the business location where the unauthorized alien performed work. If the private employer does not hold a license specific to the business location where the unauthorized alien performed work, but a license is necessary to operate the private employer's business in general, the appropriate licensing agency shall permanently revoke all licenses that are held by the private employer at the private employer's primary place of business.

(4) CONSTRUCTION.—This section shall be enforced without regard to race, color, or national origin and shall be construed in a manner so as to be fully consistent with any applicable federal laws or regulations.

History.—s. 2, ch. 2020-149.