



AGENDA REPORT
July 9, 2019

Amendment to Procurement Policy BCC-25

SUBJECT:

Amend Procurement Policy BCC-25 to update language in paragraph III.V. E-Verification to remove submission of evidence with bid/proposal and require prior to award and contract execution.

FISCAL IMPACT:

No fiscal impact

DEPT/OFFICE:

Central Services

REQUESTED ACTION:

It is requested that the board approve the amended Procurement Policy BCC-25.

SUMMARY EXPLANATION and BACKGROUND:

On September 18, 2018 the Board approved a revised BCC-25 Procurement that implemented the resolution that requires all contractors to utilize E-Verify in order to contract with the County.

Paragraph III.V.2. states that Vendors and contractors shall provide acceptable evidence of their enrollment at the time of the submission of the vendor's/contractor's proposal bid.

The revision to this paragraph, as shown in the attached updated policy states that "Vendors and contractors shall provide acceptable evidence of their enrollment prior to award and the execution of a contract".

CLERK TO THE BOARD INSTRUCTIONS:

Upon recording, please return a fully executed copy of the Policy to Steven Darling in Purchasing Services.

ATTACHMENTS:

Description

- ▢ Policy BCC-25 Redline
- ▢ Policy BCC-25 Clean copy



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July 10, 2019

M E M O R A N D U M

TO: Frank Abbate, County Manager

RE: Item F.34., Amendment of Board Policy BCC-25 for Procurement

The Board of County Commissioners, in regular session on July 9, 2019, approved amending Board Policy BCC-25, Procurement, by updating the language in Paragraph III.V. E., Verification to remove submission of evidence with bid/proposal and required prior to award and contract execution. Enclosed is the original Policy.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/ds

Encl. (1)

cc: Interim Central Services Director

POLICY

TITLE: PROCUREMENT

NUMBER: BCC-25
AMENDS: September 18, 2018
APPROVED: July 9, 2019
ORIGINATOR: Purchasing Services
REVIEW: July 9, 2022

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.
- 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 or 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. 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. Vendors and contractors 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.
 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


Christine Isnardi, Chair
Brevard County, Florida
Board of County Commissioners
Approved by the Board, on July 9, 2019