



**SECTION 3. COUNTY ADMINISTRATION**

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## SECTION 3. COUNTY ADMINISTRATION

### 3.55 PURCHASING POLICY

#### I GENERAL INFORMATION

**3.551 PURPOSE.** The purpose of this Policy is to provide for the fair and equitable treatment of all persons involved in public purchasing by this County, to maximize the purchasing value of public funds in procurement and to provide safeguards for maintaining a procurement operation of quality and integrity. This Purchasing Policy Section of this Code constitutes the Board's official policy concerning purchasing matters.

**3.552 DEFINITIONS.** The following definitions provide concise, comprehensive information concerning Procurement terminology.

*Best and Final Offer (BAFO):* In negotiations, a "best and final" offer request is sometimes made by the Purchasing and Contracts division to all offerors who are in the competitive range. It is a way of clearing up loose ends, and promoting competition allowing the offerors to update the technical or price proposal or both.

*Capital Improvement Project:* Any public improvement that the County undertakes, including the construction or reconstruction in whole or in part, of any building, road, highway, street improvements, physical plant, structure, or facility necessary in carrying out the functions of County government.

*Certificate of Final Completion:* A form that indicates that a project has been satisfactorily completed and the contractor has paid all labor, materials and other charges against the project in accordance with the terms of the Contract.

*Collusion:* Two (2) or more parties who agree to do a thing that, by its very nature, is fraudulent.

*Collusive Bidding:* An unethical and illegal practice in which suppliers act in collusion to "fix" their bids in a collectively advantageous manner.

*Commodity Code:* A unique four (4) digit code that identifies a particular specialty within various industrial groups such as construction, architecture, trades, repairs, etc.

*Construction Contract (CC):* A contract for construction services based on specific terms and conditions, technical specifications or construction drawings.

*Consumer Price Index (CPI):* A measure of the change over time in the buying power of the dollar, derived by comparing the price of like items during different time periods. Data relevant to the CPI can be obtained from the Department of Labor.

*Contract Management/Administration:* Management and monitoring of all facets of contract work to ensure that contractor or consultant performance is in accordance with contractual commitments and that all government contractual rights are satisfied and obligations are fulfilled. Administered by personnel who have been delegated that authority and responsibility.



*Cure Notice:* A notice, either oral or in writing, that informs the contractor that it is in default and states what the contractor must do to correct the deficiency. If the notice is oral, it must be confirmed in writing.

*Debarment:* The exclusion, for cause, of a vendor or contractor from bidding or receiving a contract to do business with the County.

*Designee:* A person who has been designated and approved in writing by another person to perform some duty or to carry out some specific role for the person making the designation. The written approval of the Resource Management Department Director and the County Manager is required for any Designee of the Purchasing and Contracts Division Manager and such Designee must be a member of the Purchasing and Contracts Division staff. The written approval of the County Manager is required for any Designee of a Department Director. The written approval of the Department Director is required for any Designee of a Division Manager. All Designees must be re-verified in writing every six months.

*Ethics:* The appropriate behavior expected of County employees and vendors involved in procurement actions and County contracts, including compliance with all federal and state laws, County ordinances, this Administrative Code, and the County Manager's Policies.

*Evaluation Committee:* County staff representatives who have knowledge and interest in the project, suggested by Project Manager to assist in the acquisition of consultant services under an RFP or PS. The committee should consist of Division Manager or Designee, Project Manager, a staff member outside the requesting Division, and one or more appointed staff members. The committee should be approved by the Department Director. If the professional service to be provided is estimated to be over FIVE HUNDRED THOUSAND AND NO/100 (\$500,000.00) per year, a Department Director must be on the Evaluation Committee. If the value exceeds ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) per year, the County Manager or Designee must be part of the Evaluation Committee.

*Fair Market Value:* An agreement by buyer and seller that the price for supplies or services being considered is fair and reasonable. The price for a good or service that a seller is willing to accept and a buyer is willing to pay on the open market in an arm's-length transaction.

*Fixed Fee:* Refers to a fixed and agreed amount that is stated in the Agreement. The Fixed Fee includes all contractor's direct and indirect administrative costs and profit associated with the performance of the contract.

*Gratuity:* Something of monetary value, freely given to someone else with no explicit expectation of return or reward. In actual practice, a gratuity may lead to suspicion of bribing or buying special consideration. Gratuities are specifically illegal in connection with a Government contract.

*Guaranteed Maximum Price:* Form of agreement with a contractor in which it is agreed that the contract sum will not exceed a specified maximum. This is typically used in



Design-Build projects where the contractor has the responsibility of completing the project design and for carrying out the construction work, so the cost can be controlled. If the actual cost of the work is higher than the Guaranteed Maximum Price, then the contractor must bear the additional cost. If the cost is lower than the Guaranteed Maximum Price, then the contract should set out whether the savings made go to the County, to the contractor or are shared.

*Informality:* A minor defect or variation of the bid or proposal from the exact requirements of the Invitation for Bid or the Request for Proposal, which does not affect the price, quality, quantity, or delivery schedule for the goods, services or construction being procured.

*Inspection:* The process of measuring, examining, testing, or otherwise comparing the unit of product. The examination and testing of supplies or services to determine whether they conform to contract requirements.

*Invitation for Bids (IFB):* A competitive solicitation process for specific time intervals for specific items or services to be procured for the duration of the contract. Release Orders or Purchase Orders are issued against the Agreement on an as needed basis.

*Latent Defect:* A defect in an item or service that existed at the time of County acceptance, but was not discovered by reasonable inspection until after acceptance.

*Letter of Renewal:* A document, generated by the County, conditioned on the approval of the County and the contractor or consultant, to renew the contract in accordance with the terms of the contract.

*Life Cycle Costing:* A cost-analysis tool that incorporates not only the purchase price of a piece of equipment, but all operating and related costs over the life of the item, including maintenance, down time, energy costs, etc., as well as salvage value.

*Liquidated Damages:* Damages that are pre-set in amount by agreement of the parties, contained in contract, contingent on the happening of a named event, usually late delivery by the contractor. Example: Contractor agrees to pay FIVE HUNDRED AND NO/100 DOLLARS (\$500.00) per day for every day over the scheduled delivery date. The dollar amount must be reasonable and reflective of the probable loss to the County, and is not to be calculated as a penalty to the contractor.

*Maintenance Agreements for Equipment:* An agreement that defines services, parts and labor regarding maintenance of equipment. Signature authority for such maintenance agreements must be as designated by the Board of County Commissioners in this Code.

*Mandatory Bid Amount:* The minimum dollar amount established in this Code by the Board of County Commissioners at and above which the formal competitive sealed bid process will be used, except as otherwise provided in this Code.

*Master Agreement (also known as Continuing Contract or Continuation Contract):* A contract for specific term, containing a general description of services and fee schedule. The terms Continuing Contract and Continuation Contract are both used in the Florida



Statutes. Under such a contract, the work is authorized by the issuance of Work Orders and each Work Order will specifically define the scope of services and fees for specific project, based on the terms and conditions of the Agreement. Master Agreements, Continuing Contracts, or Continuation Contracts, are not encumbered; the Work Orders are encumbered allocating the funds for the project.

*Miscellaneous Agreement:* An Agreement, executed bilaterally for one-time professional services generally under FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00) where the terms and conditions are negotiated by the Purchasing and Contracts Division.

*Negotiation:* A bargaining process between two or more parties, each with its own viewpoints and objectives, seeking to reach an agreement or settlement of a matter of common concern, such as price, schedule, technical requirements and terms of a proposed contract, on terms that are mutually beneficial and satisfactory to both parties.

*Notice to Proceed:* A written notification from the Purchasing and Contracts Division or Project Manager to the contractor to establish commencement of the contractor's responsibilities under the provisions of the Contract.

*Pre-Bid Meeting or Pre-Proposal Conference:* A meeting arranged by the Purchasing and Contracts Division for prospective bidders or proposers during the solicitation period to help solicited firms fully understand the County's requirements and to give them an opportunity to ask questions about the solicitation.

*Procurement Administrative Lead Time (PALT):* The period of time from approval of a requisition by the user to issuance of an award.

*Professional Services (PS):* A solicitation for response from interested and prospective consultants to provide qualifications for those projects governed by Section 287.055, Florida Statutes, the Consultant's Competitive Negotiation Act (CCNA).

*Project Manager:* A person designated by his or her Department or Division to ensure compliance with County codes, resolutions and procedures for contracts that he or she is assigned. The Project Manager, along with the Division Manager, is held accountable for contract compliance.

*Proprietary Purchase:* A purchase that occurs if there is more than one vendor who can provide the goods or services, but because of exigent circumstances only one specific vendor should provide the goods or services.

*Protest:* A written complaint about an administrative action or decision brought by a bidder or offeror to the appropriate administrative section with the intention of receiving a remedial result.

*Public Posting:* The display of procurement notices in an area or on a board designated and regularly used for that purpose that is available to the public during normal working hours or by posting on the Purchasing and Contracts Division internet web page.



*Purchasing Card Program:* A program designed to improve efficiency in processing low dollar purchases of commodities or services that are under the unit price of a capital item as set forth by the Board of County Commissioners in this Code from any vendor that accepts a credit card. It will allow the cardholder to purchase approved commodities and services directly from the County's vendors within the transaction monthly limits established for each cardholder. Each Purchasing Card is issued to a named individual and the County is clearly shown on the card as the Governmental buyer of goods and services.

*Purchase Order (OP):* A contractual procurement document formally stating all terms and conditions of a proposed transaction authorizing the vendor to deliver. The Purchasing and Contracts Division issues the Purchase Orders.

*Purchasing and Contracts Division (PCD):* The Office which has delegated authority to operate a centralized procurement operation for the County.

*Quotation:* A written response from a prospective supplier to the County's request to furnish specific goods or services at a stated price and based on the terms of the request.

*Recycled/Recyclable Products:* Those products or materials which are defined as Recycled/Recyclable Products by Section 403.7065 (2), Florida Statutes, and 42 U.S.C. 6901, et seq., "Resource Conservation and Recovery Act of 1976" and successor provisions.

*Release Order:* An order for delivery of goods or services placed against an established County contract or with County sources of supplies. The authority to issue Release Orders has been delegated to the Departments.

*Rental Agreements for Commodities:* An agreement that defines the terms and conditions, and provides a description of the product. The authority to sign rental agreements is as set forth in this Code.

*Reoccurring Charges:* Charges for the same like-item (commodity) that is purchased on a regular (monthly) predictable basis.

*Request for Information (RFI):* A solicitation for response from interested and prospective vendors or contractors to provide information to determine specifications, qualifications or capabilities to satisfy a need rather than a firm specification and in which the respondent may be given latitude in order to develop a product or service that will fulfill the need. Upon receipt of responses to the RFI, the County may develop specifications for an Invitation for Bid or criteria for a Request for Proposal, either of which may be issued to qualified proposers who submitted responses to the RFI.

*Request for Proposals (RFP):* A solicitation for response for a good or service for which the scopes of work, specifications or contractual terms and conditions cannot reasonably be closely defined. Evaluation of a proposal is based on criteria stated in the RFP.





*Request for Quotations (RFQ):* A solicitation for written price offers designed for the quick purchase of goods or services over TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00) and under FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00) that contains a defined statement of specifications or scope of work or services, and other applicable provisions.

*Requisition or Contract Services Request (CSR):* A document generated by the originating department and forwarded to the Purchasing and Contracts Division via the County's financial system software for the request of goods or services.

*Responsible Bidder, Proposer, or Respondent:* A person who has the capability in all respects to perform fully the contract requirements, and the tenacity, perseverance, experience, integrity, ability, reliability, capacity, facilities, equipment, financial resources and credit that will assure good faith performance.

*Responsive:* A vendor's response to a solicitation, which complies with all instructions detailed in the solicitation including completing all forms required.

*Sales Tax Recovery:* A procedure by which the County will have the option of purchasing all, any, or none of the materials and equipment included in each contract agreement directly from the manufacturer or supplier. The County is exempt from payment of sales and use tax on the purchase of any goods or services subject to such tax per Seminole County Resolution No. 96-R-177, Section 212.08, Florida Statutes, and Rule 12A, Florida Administrative Code.

*Single Source:* The one source among others that, for justifiable reason, is found to be most advantageous for the purpose of the procurement and is supported by compliance with the appropriate information, as stated in Section 60, Title L-11 of the County Manager's Policies.

*Small Business Enterprise:* A United States business that is independently owned and operated, does not primarily involve the practice of a profession, employs twenty-five (25) or fewer permanent, full-time employees, and has assets of less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00).

*Sole Source:* The only existing source of an item that meets the needs of the User Department as determined by a reasonably thorough analysis of the marketplace and is supported by compliance with the appropriate information, as stated in Section 60, Title L-11 of the County Manager's Policies.

*Specification:* A concise statement of a set of requirements to be satisfied by a product, material, service, or process used in an Invitation for Bid or Request for Quotation to describe the goods and service to be purchased or otherwise required. Any description of the physical or functional characteristics, or of the nature of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

*Sunshine Law:* Section 286.011, Florida Statutes: Florida Government in the Sunshine Law requiring meeting to be open to the public. Committees involved in the selection and negotiation of vendors are governed by this law.



*Surety Bonds:* A document by the surety company on behalf of a contractor to guarantee that an obligation will be fulfilled.

*Suspension:* Temporary debarment for a period not to exceed three (3) years.

*Term Agreements:* Agreements on a continuing basis for a defined period of time (term). Release or Purchase Orders are issued against Term Agreements that are encumbered.

*User Department:* The department within the County government that requests and utilizes goods or services procured under this Code.

*Value Analysis:* A means of ensuring a thing will work properly at a proper cost without over or under engineering. Also, a means of determining how much a thing or service should cost, as opposed to how much it does cost. A systematic and objective evaluation of the function of a product and its related cost. As a pricing tool, value analysis provides insight into the inherent worth of a product.

### **3.553 PROCUREMENT COMMITTEE COMPOSITION; POWERS AND DUTIES.**

(1) Composition: The Procurement Committee is composed of the following officials and employees who will be appointed by the County Manager, as needed, without additional compensation:

- (a) Positions:
  - (i) County Manager or Designee
  - (ii) Purchasing and Contracts Division Manager
  - (iii) County Attorney or Designee
  - (iv) A County Department Director
  - (v) A County Division Manager
  - (vi) A County professional, mid-management, or supervisory employee

(2) Powers and Duties of the Procurement Committee. The Procurement Committee shall perform the following functions:

(a) Propose, review and recommend to the County Manager procedures consistent with this Section, and the Seminole County Code governing the procurement, management, control, and disposal of any and all supplies, services, and construction for the County. The Procurement Committee has the power to audit and monitor the implementation of procedures as adopted by the County Manager and the requirements of this Section, but shall not exercise authority over the award or administration of any particular contract, or over any dispute, claim, or litigation pertaining to such contract.

(b) Review recommendations for standardization of brands, makes, or types of supplies. Standardization is authorized by the County Manager and it is based on



compatibility of equipment, cost savings to the County, ease of maintenance or any other grounds found to make standardization in the best interest of the County. After its adoption, each standard specification or brand, until revised or rescinded, will apply in terms and effect to every future purchase and contract for the supply described in such specification. However, any User Department, if approved by the County Manager, can be exempt from using the standard specification. The Committee must receive written documentation requesting an exemption and stating why an exemption is needed. All specifications must be definite and certain and must permit and encourage competition to the maximum extent possible consistent with accomplishing the purposes of the User Department. The duration of the standardization should be no greater than six (6) years and a review must occur when necessary to reflect any technological advances or changes that might make replacement more economical over the life expectancy of the system or product.

**3.554 APPROVAL AUTHORITY.**

(1) The Board of County Commissioners has the right to award all contracts except as otherwise provided in this Code. The Board of County Commissioners, by resolution and amendment to this provision, may delegate authority to award contracts for supplies, services, or construction to other County officials. Individuals that have been delegated authority are required to sign a "Statement of Responsibility" and will be held accountable for all actions occurring under their authority, in accordance with Sections 112.3144 and 112.3145(1)(a)(3), Florida Statutes. Anyone having authority to make any purchase exceeding the threshold amount provided for in Section 287.017, Florida Statutes, for category one must file with the Supervisor of Elections within the county in which he or she permanently resides, a statement of financial interest. As to those contracts for which the Board retains the right of award, the Board has authority to review, modify or set aside all previous administrative determinations, whether appealed or not, made in the course of the procurement.

(2) All Department Directors or their Designee have the authority to authorize purchases of goods and services in accordance with Section 220.41 (Emergency Procurement) and Article VIII, Purchasing Card, Section 3.5543.

(3) The following services, when required as part of recreational services provided by the Leisure Services Department, will be exempt from the competitive process: Conservation Instructors such as Environmental Education Instructors, Health and Wellness Instructors including Tennis Pros, Assistant Tennis Pros, Developmental Instructors, Tournament Directors, Site Coordinators, Officials, Umpires, Scorekeepers, Referees, Fitness Instructors, Social Equity and Educational Instructors such as Chess Instructors, Art Instructors, Summer Reading Program Instructors and Program Entertainment. The Leisure Services Department Director has the authority to award and execute contracts for the above listed services within a County Manager approved compensation fee schedule, with Program Entertainment contracts not to exceed FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00). These contracts must comply with a limit (ceiling) to the maximum amounts that can be approved by the Leisure Services Department Director and may be adjusted to a yearly CPI. Any compensation above the stated amounts (adjusted for inflation) must be approved by the County Manager. The



Leisure Services Department shall ensure that appropriate budget is available to pay for these contracts prior to execution.

(4) (a) The Community Services Department Director has the authority to award and execute contracts with Training Providers for the Community Services Block Grant Training Assistance Program.

(b) The Community Services Department Director has the authority to execute agreements, loan documents, restrictive covenants, satisfactions, and amendments or modifications to any of these documents, and other related documents pertaining to the State Housing Initiatives Partnership (SHIP) program in an amount not to exceed ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) of aggregated costs for each SHIP financed real property.

(5) (a) The Purchasing and Contracts Division Manager or Designee has the authority to award and execute purchases of goods and services not to exceed FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00) including change orders, rental and software agreements, and amendments. The County Manager or Designee has the authority to award and execute purchases of goods and services not to exceed ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) including change orders, rental and software agreements, and amendments. All purchases over TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00) and under FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00) should be obtained competitively by written quotes, except as provided within Chapter 220, Seminole County Code, Purchasing Code or this Administrative Code. All purchases over FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00) will be obtained competitively by bid, PS, RFQs or RFP, except as provided within Chapter 220, Seminole County Code, Purchasing Code, or this Administrative Code. The County Manager, Purchasing and Contracts Division Manager or Designee is authorized to renew options on approved contracts, as long as it is per the terms, conditions and renewal period specified in the original contract and the total dollar amount for each contract or purchase order is within the Board approved budget. All purchases of goods and services, including library materials, in excess of ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) are required to be awarded by the Board of County Commissioners, except as otherwise provided in Chapter 220, Seminole County Code, Purchasing Code, or this Administrative Code. The County Manager, Purchasing and Contracts Division Manager, or Designee has the authority to sign all agreements, purchase orders, contracts, work orders, change orders, release orders, and amendments in excess of FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00) on Board approved agreements that are submitted via an agenda process. Work Orders will be processed in accordance with established processes for professional and consultant services.

(b) The County Manager is authorized to execute contracts for purchase and sale of real property, assignments of such contracts, loan documents, restrictive covenants, satisfactions, work orders, change orders, amendments or modifications to the foregoing, applications for payment and other related documents under the Neighborhood Stabilization Program ("NSP") in an amount not to exceed TWO HUNDRED THOUSAND AND NO/100 DOLLARS (\$200,000.00) of aggregated



acquisition and rehabilitation costs for each NSP financed residential real property. The County Manager is authorized to execute all necessary documents to effect the resale of such homes to income qualified households for use as their primary residence at such prices and under such terms as are consistent with NSP requirements and objectives. The County Manager must submit a full report to the Board of all NSP transactions on a monthly basis until completion of the NSP, including the expenditure of all such NSP funds, including Program Income as defined in applicable regulations or remittal of such funds to the United States Department of Housing and Urban Development.

(c) The County Manager has the authority to execute agreements, assignments of such agreements, loan documents, restrictive covenants, satisfactions, work orders, change orders, amendments or modifications to the foregoing, applications for payment and other related documents under the HOME Investment Partnership Program ("HOME") in an amount not to exceed ONE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$150,000.00) aggregated costs for each HOME financed residential real property. The Director of Community Services has the authority to execute agreements, assignments of such agreements, loan documents, restrictive covenants, satisfactions, work orders, change orders, amendments or modifications to the foregoing, applications for payment and other related documents under the HOME Investment Partnership Program ("HOME") in an amount not to exceed ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) aggregated costs for each HOME financed residential real property. The County Manager or Community Services Department Director must submit a full report to the Board of the HOME transactions on a monthly basis until completion of HOME, including the expenditure of all such HOME funds, including Program Income as defined in applicable regulations or remittal of such funds, to the United States Department of Housing and Urban Development.

(6) The County Manager, the Purchasing and Contracts Division Manager, or Designee has the authority to approve and execute all change orders and amendments and to approve price escalation or de-escalation changes, according to the terms of the particular contract providing that the change does not exceed five percent (5%) of the latest approved contract value for Construction Contracts under TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00) and three percent (3%) for Construction Contracts TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00) and above. Amendments to Construction Contracts greater than these signature authority amounts must be approved by the Board of County Commissioners.

(7) Master Agreements are approved by the Board with an estimated usage. The County Manager, the Purchasing and Contracts Division Manager, or their Designee has the authority to execute Work Orders and Purchase Orders issued under Board approved Master Agreements exceeding the estimated usage if the project associated with the Work Order or Purchase Order has been approved by the Board during the budget process.

(8) The County Manager, the Purchasing and Contracts Division Manager, or Designee has the authority to execute amendments to contracts to reflect a change to the



company's name, due to assignments, mergers or re-organization of the firm. The County Manager, Purchasing and Contracts Division Manager, or Designee has the authority to approve time extensions if the resulting cost is within the delegated authority described above.

(9) Award of County-wide Construction Projects under \$500,000.00. The Purchasing and Contracts Division Manager or Designee has the authority to approve and execute agreements for construction projects with a value of FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00) or less if the award is to the lowest responsible, responsive bidder and the amount has been approved during the budget process. The procurement activities surrounding the award must be in compliance with statutory laws and County Policies and Procedures. If the recommendation of award of the Construction Contract is to other than the lowest responsible, responsive bidder, the award will be presented to the Board of County Commissioners for determination.

(10) The County Manager, the Purchasing and Contracts Division Manager, or Designee has the authority to award and execute contracts and purchase orders in excess of FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00) for purchase of goods and services providing services are incidental to the goods if the award is to the lowest Responsible Bidder and the amount has been approved during the budget process. This includes piggyback from existing contracts of other public entities. If the award of the contract or Purchase Order for purchase of goods is other than the responsible lowest bidder, the award will be presented to the Board of County Commissioners for determination.

(11) The Purchasing and Contracts Division Manager, with the concurrence of the County Manager, has the authority to settle individual claims in connection to contracts provided the settlement does not cause the total contract amount, including the settlement amount, to exceed ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00). All change orders issued as a result of settling a claim, if the original and revised total cost exceeds ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00), will require Board of County Commissioners approval, unless otherwise specified in this Code. The Purchasing and Contracts Division Manager shall notify the Board of settlements made under ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00). Terminations of contracts awarded by the Board of County Commissioners must go back to the Board for approval or denial.

(12) The Board may authorize the Purchasing and Contracts Division to execute contracts that the Board has approved by including such authorization in such approval.

## **II SOURCE SELECTION AND CONTRACT FORMATION**

### **3.555 GENERAL POLICY.**

(1) The procurement of all goods, material, equipment, services, and combinations of goods or services by or on behalf of the Board, including those transactions through which the County receives revenue, in an amount equal to or in excess of the Mandatory Bid Amount of FIFTY THOUSAND AND NO/100 DOLLARS



(\$50,000.00), must be competitively awarded based on the submission of sealed bids, proposals submitted in response to an RFP, proposals submitted in response to a request for information or qualifications, or proposals submitted for competitive negotiations, as specifically provided in Chapter 220, Seminole County Code, Purchasing Code, or this Administrative Code, except as otherwise provided by state or federal law. Competitive bidding is the preferred method of procurement. Departmental requirements are not to be split to avoid the competitive bidding thresholds. It is in the best interest of the County to combine requirements and competitively bid these requirements to ensure a fair and reasonable price.

(2) Types of formal solicitations used to compete the County's requirements are Invitations for Bid (IFBs), Construction Contracts (CCs), Request for Proposals (RFPs), Professional Services (PSs) related to CCNA, and Request for Information (RFIs). Request for Quotations (RFQ) are generally used for requirements under FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00).

(a) Invitation for Bid (IFB).

(i) Solicitation for goods and services over FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00) – Master Agreements for commodities and services.

(ii) Multiple year contracts.

(iii) Involves a review process. Awarded to the lowest most responsive, responsible bidder.

(iv) Need defined scope.

(b) Request for Proposal (RFP).

(i) Solicitation can be for project specific if over FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00) or for Master Agreements whereby the firm(s) will provide professional services, not related to CCNA, where each individual project will not exceed THREE HUNDRED THOUSAND AND NO/100 DOLLARS (\$300,000.00).

(ii) Can be one time procurement or multiple year contract.

(iii) Involves an evaluation process. Solicitation to include the weighted evaluation criteria.

(iv) Complex projects, performance of services.

(v) Best value to the County based on criteria and objectives.

(c) Professional Services (PS).

(i) Solicitation can be for project specific if over FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00) or for Master Agreement whereby the firm will provide CCNA professional services to the County for projects in which the



estimated construction cost of each individual project under the contract does not exceed FOUR MILLION AND NO/100 DOLLARS (\$4,000,000.00) and FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00) for study activity under CCNA.

(ii) Professional Services associated with Consultant's Competitive Negotiation Act (CCNA). Services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping or performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice. Section 287.055, Florida Statutes.

(iii) Involves a qualification based process including evaluations and discussions/presentation process. Solicitation to include the weighted evaluation criteria.

(iv) County to rank firms in order based on their qualifications and must conduct discussions with a minimum of three (3) firms, if possible.

(v) Selection based on qualifications and performance data.

(vi) County may request, accept and consider compensation only during competitive negotiations.

(vii) Firms providing professional services under Master Agreements, Continuing Contracts, or Continuation Contracts will not be required to bid against one another.

(viii) Can be one time procurement or multiple year contract.

(d) Request for Quote (RFQ).

(i) Solicitation for goods and services which cost is estimated to be between TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00) and FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00).

(ii) Usually one time procurement.

(iii) Involves a review process. Awarded to the lowest most responsive, responsible bidder.

(e) Construction Contract (CC).

(i) Solicitation can be for project specific is over FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00).

(ii) For Master Agreement whereby the firm(s) will provide construction services where each individual project (Work Orders) will not exceed THREE HUNDRED THOUSAND AND NO/100 DOLLARS (\$300,000.00) or SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$75,000.00) for electrical work as defined in Section 255.20, Florida Statutes, or TWO MILLION AND NO/100 DOLLARS





(\$2,000,000.00) for County road System projects as defined in Chapter 236, Florida Statutes.

(iii) Involves a review process. Awarded to the lowest most responsive, responsible bidder.

(iv) Can be one-time procurement or multiple year contract.

(f) Design-Build (DB).

(i) Solicitation for Design and Construction projects over FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00). Requires a Design Criteria Package. One time contract.

(ii) Single point of contact/responsibility. Need a well defined scope. Need more timely decisions from the County. The County retains control of design. Construction input occurs during the design process. County responsible for changes in scope.

(iii) Involves an evaluation process. Solicitation to include the weighted evaluation criteria.

(iv) Two (2) possible methods:

A. Qualification based process – CCNA process applicable to Design-Build to be used. Phase I – Qualifications; Phase II – Technical Proposal and Price Proposal.

B. Proposal Selection Process – Competitive proposals evaluations based on price, qualifications, availability and past work of the firms.

(g) Request for Information (RFI).

(i) Solicitation for obtaining information from vendors when it is not practical to specifically define a scope of services. Usually used to search the market and request suppliers involvement.

(3) Nothing in Section 3.555(1)-(2) above prohibits the County from renewing purchase orders or contracts with vendors or contractors originally selected through a competitive selection process if such renewal is within the scope of the purchase order or contract, or from purchasing goods, materials, or equipment for inclusion in a capital improvement project whose cost has been incorporated.

(4) The County shall comply with all Florida Department of Transportation (FDOT) guidelines and requirements when the procurement is for projects funded by FDOT.



**3.556 COMPETITIVE SEALED BIDDING.**

(1) Public Notice.

(a) Adequate public notice of the Invitation for Bids must be given a reasonable time prior to the date set forth for the opening of bids. Such notice must include publication in a newspaper of general circulation and will be advertised on the County website. The public notice on the County website must state the date and time of bid opening. Public notices must satisfy all statutory public notice requirements.

(b) If the Florida Statutes, the Seminole County Code, or this Code require the County to solicit competitive bids or proposals for any County construction project that is projected to cost more than the thresholds specified in Section 255.0525, Florida Statutes, as this statute may be amended from time to time, then public notice for such solicitation must be published in compliance with this statute. As of September 2020, this statute requires public notice of such solicitations where the project is estimated to cost more than TWO HUNDRED THOUSAND AND NO/100 (\$200,000.00). This statute has a lengthier notice provision for such solicitations where the project is estimated to cost more than FIVE HUNDRED THOUSAND AND NO/100 (\$500,000.00).

(2) Bids Submissions.

(a) Bids must be received no later than the time and date and at the location specified in the advertisement and solicitation documents. Bids received later or at any other location than specified will not be accepted and will be returned unopened to the bidder. It will be the sole responsibility of the bidder to ensure that the bidder's submittal reaches the specified place by the specified time. The County will bear no responsibility for any failure of the U.S. Postal Service or other courier service to successfully deliver submittals to the County. Bidders will be allowed to withdraw their submittals at any time prior to bid opening, providing they show proper identification.

(b) Bids will be opened publicly in the presence of one or more witnesses at the time and place designated in the advertisement and solicitation documents. Bids will be open to public inspection pursuant to Chapter 119, Florida Statutes, and Section 286.0113, Florida Statutes, as these statutes may be amended from time to time.

(3) Bids Acceptance and Review.

(a) A bid will be considered responsive only if it conforms to the requirements of the Invitation for Bid concerning pricing, surety, insurance, specifications of the goods or services requested, and any other matter unequivocally stated in the Invitation for Bid as a determinant of responsiveness. A lack of conformity on these matters that is non-substantive in nature may be considered a technicality or irregularity that may be waived by the Purchasing and Contracts Division Manager. The bidder must provide additional information if requested by the County concerning the bidder's responsibility as a bidder. If bidder fails to provide the information, the County shall base the determination of responsibility upon any available information or may find



the vendor non-responsible. If a bidder is found non-responsive or non-responsible, the Purchasing and Contracts Division Manager or Designee shall prepare a written determination of non-responsibility setting forth the basis of the finding. The failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility. A copy of the determination will be sent promptly to the non-Responsible Bidder or offeror. The final determination will be made part of the contract file.

(b) After the bid opening, the Purchasing and Contracts Division Manager or Designee has the authority to request additional information from the bidder concerning the bidder's responsibility to perform. The bidder may voluntarily, after bid opening, provide additional or corrective information concerning the bidder's responsibility as a bidder. The Purchasing and Contracts Division Manager or Designee must consider this and all other information gained prior to the time of award or rejection in making his or her determinations and recommendations concerning bid acceptance and award.

(c) Errors in the extension of unit prices stated in a bid or in multiplication, division, addition, or subtraction in a bid may be corrected by the Purchasing and Contracts Division Manager or Designee prior to consideration for award. In such cases, the unit prices bid must not be changed. When bidders quote in words and in digits on items on the bid form, and the words and digits do not match, the words will control and the digits will be disregarded. Any discrepancies in the bid other than error in extension of unit prices will be sufficient to consider the bid as non-responsive.

(d) After bid opening, bidder will not be permitted to correct a bid error that would cause such bidder to have the low bid, except that any bidder may correct errors in extension of unit prices stated in the bids, or in multiplication, division, addition, or subtraction. In such cases, unit prices bid must not be changed and such error must be readily apparent on the face of the bid form. A bidder who alleges a nonjudgmental error of fact may be permitted to withdraw the bidder's bid only when reasonable proof that such a mistake was made and prior to posting the recommendation for award on the website. If a bidder unilaterally withdraws the bidder's bid without permission after bid opening, the Purchasing and Contracts Division Manager may suspend the bidder from receiving new business from the County for up to two (2) years, beginning with the date of the unilateral withdrawal, and retain any bid security submitted with the bid. Once a bidder withdraws a bid, that bid cannot be reinstated.

(e) Nothing in this Code is intended to prohibit the acceptance of a voluntary reduction in price from a low bidder after bid opening and prior to contract award, provided such reduction is not conditioned on, or does not result in, the modification or deletion of any items, specifications or conditions contained in the solicitation.

(f) Unbalanced Bid. A bid with extreme variations from the County's estimate, or where obvious unbalancing of unit or lump sum prices has occurred, will be thoroughly reviewed. Where obvious unbalanced bid items exists, the Purchasing and



Contracts Division Manager or Designee decision or recommendation to award or reject a bid must be supported by written justification. A bid found to be mathematically unbalanced, but not found to be materially unbalanced, may be awarded. The Purchasing and Contracts Division Manager may determine a materially unbalanced bid to be non-responsive.

(4) Bids Award.

(a) Upon review of the bids, a contract must be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and award criteria set forth in the solicitation documents.

(b) A contract, written or approved by the County Attorney's Office, will be awarded and executed by the awarding authority.

(c) Requirements for the award of contracts for the construction or improvement to a public building, a structure, or other public construction work are specified in Section 3.558(2) of this Code.

(d) In cases of emergency, the procedures required in this Section may be altered by the County in accordance with Section 220.41, Seminole County Code.

(e) In the event only one bid is received, the County may award or negotiate with the sole bidder if considered to be in the best interest of the County.

(f) In the event all bids exceed budgeted funds as certified by the Resource Management Department or the low bidder is willing to negotiate a lower price, the Purchasing and Contracts Division Manager or Designee is authorized, when time or economic considerations preclude re-solicitation, to negotiate an adjustment of the bid price or bid specifications with the low responsive and Responsible Bidder in order to bring the bid within the amount of budgeted funds or at a more competitive rate.

**3.557 REQUEST FOR PROPOSALS (RFP).**

(1) Public Notice.

(a) Adequate public notice of the Request for Proposals must be provided a reasonable time prior to the date set forth for the proposals submission. Such notice must include publication in a newspaper of general circulation and will be advertised on the County website. The public notice on the County website must state the date and time of RFP closing. Public notices must satisfy all statutory public notice requirements.

(2) Proposals Submissions.

(a) Proposals must be received no later than the time and date and at the location specified in the advertisement and solicitation documents. Proposals received later or at any other location than specified will not be accepted and will be returned unopened to the proposer. It will be the sole responsibility of the proposer to ensure that the proposer's submittal reaches the specified place by the specified time.



The County will bear no responsibility for any failure of the U.S. Postal Service or other courier service to successfully deliver submittals to the County. Proposers will be allowed to withdraw their submittals at any time prior to RFP closing, providing they show proper identification.

(b) Request for Proposals will be opened publicly in the presence of one or more witnesses at the time and place designated in the advertisement and solicitation documents. Proposals will be open to public inspection pursuant to Chapter 119, Florida Statutes, and Section 286.0113, Florida Statutes, as these statutes may be amended from time to time.

(3) Evaluations of Proposals.

(a) The County will make award to the proposal that meets the requirements and criteria set forth in the solicitation and whose award, in the determination of the County, will be in the best interest of the County. Only criteria set forth in the solicitation may be used to evaluate the proposals. Criteria that will affect the price and be considered in evaluation for award will be objectively measurable, such as financial capability, references, discounts, transportation costs, past performance, total or life cycle costs and overall responsiveness of the submittal. No criteria should be used in the evaluation that is not set forth in the solicitation documents.

(b) To determine the responsibility of the proposer and compliance with the requirements, the County may consider the following factors:

- The contractor or vendor has appropriate financial, material, equipment, facility, and personnel resources, experience, knowledge, and expertise, or the ability to obtain them, necessary to indicate its capability to meet all contractual requirements.

- The contractor or vendor has a satisfactory record of performance on similar projects.

- The contractor or vendor has a satisfactory record of integrity.

- The contractor or vendor has authorization to conduct business in the State of Florida.

- The contractor or vendor has supplied all necessary information in connection with the inquiry concerning responsibility, including but not limited to any licenses, permits, insurance, price sheets or required organizational papers.

(c) Evaluation of proposals may be made in a multi-step selection or proposal process as set forth in the RFP. Discussions may be conducted with responsible proposers who submit proposals determined to be reasonably suitable of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. Proposers will be evaluated fairly and equally with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and prior to award for the purpose of



obtaining Best and Final Offers. Conducting “Best and Final Offers” will be permitted as way of clarification and to make minor changes to the scope.

(4) Award.

(a) Award will be made to the responsive, Responsible Proposer whose proposal is determined, in writing, to be the most advantageous to the County, taking into consideration the evaluation factors set forth in the Request for Proposals. The contract file must contain the reasons for the award, including the evaluations of all persons that evaluated the proposals.

(b) A contract, written or approved by the County Attorney’s Office, will be awarded and executed by the awarding authority.

(c) In cases of emergency, the procedures required in this Section may be altered by the County in accordance with Section 220.41, Seminole County Code.

(d) In the event only one proposal is received, the County may award or negotiate with the sole proposer if considered to be in the best interest of the County.

(e) The Purchasing and Contracts Division Manager or Designee is authorized, when time or economic considerations preclude re-solicitation, to negotiate an adjustment of the price proposal and specifications with most responsive, Responsible Proposer in order to bring the contract within the amount of budgeted funds or at a more competitive rate.

**3.558 CONTRACTS FOR CONSTRUCTION PROJECTS.**

(1) Public Notice. Adequate public notice must be given in the same manner as provided in the bidding notice.

(2) Award.

(a) Except for County Road System projects as provided in Section 3.558(c) and (d) below, the construction or improvement to a public building, structure, or other public construction works must be competitively awarded (based on the submission of sealed bids or proposals submitted in response to a request for proposal, proposals submitted in response to a request for qualifications, or proposals submitted for competitive negotiation) to an appropriately licensed contractor for each project that is estimated in accordance with generally accepted cost-accounting principles to cost more than THREE HUNDRED THOUSAND AND NO/100 DOLLARS (\$300,000.00). Except for County Road System projects as provided in Section 3.558(c) and (d) below, the County must competitively award electrical work to an appropriately licensed contractor for each project that is estimated in accordance with generally accepted cost-accounting principles to cost more than SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$75,000.00).

(b) Except for County Road System projects as provided in Section 3.558(c) and (d) below, contracts for construction projects that are less than THREE HUNDRED THOUSAND AND NO/100 DOLLARS (\$300,000.00) may be awarded through a continuation contract based on unit prices providing that each order under



these Agreements does not exceed THREE HUNDRED THOUSAND AND NO/100 DOLLARS (\$300,000.00) each.

(c) County Road System projects, including construction and reconstruction of roads and bridges, resurfacing, full scale mineral seal coating, and major bridge and bridge system repairs estimated to cost more than FOUR HUNDRED THOUSAND AND NO/100 DOLLARS (\$400,000.00) must be competitively awarded by bidding each project in accordance with this Code. A master agreement may be awarded through a continuation contract based on unit prices providing that each order under the master agreement does not exceed TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00) each, except as provided in Section 3.558(d) below.

(d) If the construction and reconstruction of roads and bridges, including resurfacing, full scale mineral seal coating, and major bridge and bridge system repairs, is to be performed utilizing the proceeds of the eighty percent (80%) portion of the surplus of the constitutional gas tax and the project is estimated to cost more than FOUR HUNDRED THOUSAND AND NO/100 DOLLARS (\$400,000.00), then the Construction Contract must be awarded to the lowest Responsible Bidder by competitive bid, as provided in Section 336.41(4), Florida Statutes.

**3.559 PROCUREMENT OF ARCHITECTURAL, ENGINEERING, TESTING, LANDSCAPE ARCHITECTURAL, AND LAND SURVEYING SERVICES - CONSULTANTS COMPETITIVE NEGOTIATION ACT ("CCNA").** Sections 3.559 through 3.5514 apply to CCNA Professional Services (PS) Agreements.

**3.5510 PUBLIC ADVERTISEMENT (CCNA).** Requirements for CCNA Professional Services are defined in Section 287.055, Florida Statutes. Each project must be advertised on the County website and published in a newspaper of general circulation.

(1) This Section does not apply when project involves a public emergency pursuant to Section 220.41, Seminole County Code.

**3.5511 CONTINGENT FEES (CCNA).** All CCNA contracts must contain a prohibition against contingent fees as required by Section 287.055(6), Florida Statutes.

**3.5512 COMPETITIVE SELECTION (CCNA).**

(1) (a) Identification of Need. The Department or Division will submit to the Purchasing and Contracts Division a request for CCNA Professional Services including the scope of services, specific qualification requirements, evaluation criteria and the names of the Evaluation Team.

(b) The evaluation criteria stated in the solicitation will be the sole means for "short listing" firms that have submitted qualification documents in response to the solicitation. Evaluation criteria will include, but are not limited to the following: approach to work, the ability of professional personnel; whether a firm is a certified minority business enterprise; past performance; willingness to meet time and budget requirements; location (except for FDOT projects); recent, current and projected workloads; and volume of work previously awarded.



(2) (a) Review of Qualifications. A duly appointed Evaluation Committee shall review all qualifications and submittals of those firms responding to the solicitation. Recommendations for appointment of evaluation committee members who have knowledge and interest in the project should be suggested by the Project Manager. The evaluation committee should consist of the following: Division Manager or Designee; Project Manager; and a staff member outside the requesting Division with project knowledge. If the estimated value of the professional services is over FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00) per year, a Department Director must be a member of the evaluation committee. If the value exceeds ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) per year, the County Manager or Designee must be a member of the evaluation committee.

(b) County consultants can participate in an advisory capacity, not as an evaluator.

(c) The Evaluation Committee will review statements of qualification and performance data submitted in response to the solicitation and will select, in order of preference, no fewer than three (3) firms deemed to be the most highly qualified. If there are less than three (3) firms responding and after due diligence and searching it is determined that every effort was made to meet Section 287.055, Florida Statutes, the County will interview all respondents and proceed with the evaluation process.

(d) The evaluation committee will conduct some type of discussions or presentations with the shortlisted firms. Discussions or presentations will emphasize the firms' qualifications, approach to the project, and ability to furnish the required services and these requirements will be the same for each firm shortlisted. Each evaluation committee member will rank the firms with respect to their qualifications. At times, alternate procedures stated in the County Manager's Policies and Procedures may apply.

### **3.5513 NEGOTIATIONS AND CONTRACT EXECUTION (CCNA)**

(1) Upon Board direction, the Department Director, or Designee, and the Purchasing and Contracts Division Manager, or Designee, shall negotiate a contract with the Board first-ranked firm to perform services upon terms and conditions, and at a compensation which the Department Director, or Designee, and the Purchasing and Contracts Division Manager, or Designee, determines to be fair and reasonable.

(2) If the Department Director, or Designee, and the Purchasing and Contracts Division Manager, or Designee, are unable to negotiate a satisfactory contract with the Board first-ranked firm, negotiations with that firm will be formally terminated and written notification sent to the firm. The Department Director, or Designee, and the Purchasing and Contracts Division Manager, or Designee, then shall undertake negotiations with the second-ranked firm. If these negotiations also prove unsatisfactory, negotiations shall again be terminated and the Department Director, or Designee, and the Purchasing and Contracts Division Manager, or Designee, will negotiate, in turn, with each firm in accordance with its ranking.





(3) When required by Florida Statutes or at the direction of the Purchasing and Contracts Division, the firm awarded the contract must execute a truth-in-negotiation certificate stating that the wage rates and other factual unit costs are accurate, complete, and current, at the time of contracting.

(4) At the successful conclusion of negotiations, a contract, written or approved by the County Attorney's Office, will be awarded as specified in Section 3.554 of this Code.

(5) Master Agreements. As defined under the Consultants' Competitive Negotiation Act ("CCNA") can be used for the following: (1) projects in which construction costs do not exceed \$4,000,000.00; (2) study activities when the fee for such professional service does not exceed \$500,000.00; or (3) work of a specified nature as outlined in the contract required by the County, with no time limitation except that the contract must provide a termination clause. The continuing contract will act as a general professional services contract within the stated subject matter and will have a general description of services but will not have a defined scope of work. The work will be assigned through the issuance of work authorizations. Each work authorization will specifically define the scope of work and fees, per the terms and conditions of the Agreement, or better, for the particular professional services.

(6) At times, audit provisions of the contract must be enforced. The best method for this audit is for an external audit to validate rates and invoices in accordance with the Agreement.

**3.5514 RESERVATION OF AUTHORITY (CCNA).** The authority to issue or revise this Policy is reserved to the Board of County Commissioners subject to the provisions of Chapter 287, Florida Statutes.

**3.5515 DESIGN-BUILD PROCUREMENT (DB).** This Section will apply whenever the County elects to use design-build services for a construction project, and is intended to assure compliance with CCNA.

(1) Definitions: For the purpose of this process, the following definitions apply:

*Design-build:* Combining the design and construction phases of a project into a single contract. Providing one administrative entity responsible for the design and construction under one contract where architectural and engineering services are performed by a registered architect or professional engineer and where construction services are performed by a certified contractor.

*Design-build Contract:* One contract with a design-build firm for the design and construction of a public construction project.

*Design-build Firm:* A partnership, joint venture, corporation, or other legal entity meeting one (1) of the following two (2) criteria:

(a) The firm is certified under Chapter 489.119, Florida Statutes, to engage in contracting through a certified or registered general contractor or a certified or



registered building contractor as a qualified agent, or the firm is is certified under Chapter 471.023, Florida Statutes, to practice or to offer to practice engineering, or the firm is certified under Chapter 481.319, Florida Statutes, to practice or to offer to practice landscape architecture; or

(b) The firm has among the principal parties to the legal entity which is certified under Chapter 489.119, Florida Statutes, to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as a qualified; or among the parties to the legal entity is a principal party that is certified under Chapter 471.023, Florida Statutes, to practice or to offer to practice engineering, or is certified under Chapter 481.219, Florida Statutes, to practice or to offer to practice architecture; or the firm is certified under Chapter 481.319, Florida Statutes, to practice or offer to practice landscape architecture.

*Design-Build Budget Estimate:* The Budget Estimate refers to the amount the County estimates the project will cost.

*Design and Construction Criteria Package:* The design and construction requirements that define the criteria essential to ensure that the project is designed and constructed to meet the needs determined by the County. The package is part of the RFP.

*Design Criteria Professional:* A firm or individual certified or registered under Chapter 481, Florida Statutes, to practice architecture or landscape architecture, a firm or individual who holds a current certificate as a registered engineer under Chapter 471, Florida Statutes, to practice engineering and who is employed by or under contract with the County to provide architectural or engineering services in connection with the preparation of the design criteria package.

The design criteria professional will not be eligible to render services under a design-build contract on a project for which the design criteria professional has prepared the design criteria package.

The design criteria professional may assist the County in evaluating proposals, negotiating with firms, and administering the contract. This assistance may include the verification of the selected firm's compliance with the design criteria package.

*Design-Build Joint Venture:* A Design-Build Joint Venture is created when a qualified bidder, or group of qualified bidders, and another entity enter into an agreement prior to bidding on Design-Build projects.

*Design-Build Stipend Agreement:* The County may determine to reimburse Design-Build Firms for submitting a responsive proposal. The non-selected shortlisted Design-Build Firms with the highest score submitting a responsive proposal may be compensated. The terms and conditions of compensation must be stated in the RFP. The intent is to compensate the amount that is noted in the RFP package. The amount is not intended to compensate the Design-Build Firms for the total cost of preparing the bid package.

*Short-list:* Defined as the responsive Design-Build Firm(s) participating in Phase II of the project.



(2) Development of Design Criteria Package.

(a) A design criteria professional that is a County employee or a consultant selected and engaged in accordance with Chapter 287.055(4) and (5), Florida Statutes, will prepare a design criteria package specifying performance criteria for the project. The performance criteria will include, but will not be limited to, size, net interior space provisions, location, material quality standards, cost, construction schedule, site development requirements, landscaping, grading, utility provisions for water, power, telephone, stormwater disposal and parking provisions.

(b) The purpose of the design criteria package is to furnish performance criteria and sufficient information so as to permit design-build firms to prepare competitive technical and price proposals in response to the County's Request for Proposals. The design criteria must be issued with the RFP on all competitive projects solicited via the competitive proposal process. For qualification based process, the design criteria package must be provided to the top ranked firm after Board approval, in compliance with Chapter 287.055, Florida Statutes.

(c) The design criteria package must include, but is not limited to, performance based factors such as:

- Legal description of the project site
- Survey Information
- Space requirements
- Material quality standards
- Schematic layouts and conceptual design criteria
- Costs estimates
- Design and construction schedules
- Site development requirements
- Utilities, stormwater provisions
- Parking requirements

The awarded firm is responsible to develop the project based on the design criteria package.

(3) Procurement and Firm Selection Procedures for Design-Build Contract Services. After preparation of the design criteria package, a design-build firm will be selected using a qualifications based procedure in compliance with Chapter 287.055 (3), (4) and (5), Florida Statutes, or a competitive proposal process. The solicitation documents must identify which method will apply for the project.



(a) Competitive Proposal Selection Process. The process will comply with the RFP process of this Code, including the following:

(i) Firms responding to the Request for Proposals shall submit a technical and price proposal, in addition to other required documents, as required by the County. The County may require firms to submit separate documents for qualifications, technical proposals and price proposals depending on the project.

(ii) The technical proposal should present a clear, comprehensive and well documented representation, understanding and commitment of the following:

A. How the design-build firm proposes and intends to implement and fulfill the requirement set forth in the design criteria package and other requirements of the design-build contract; and

B. How the design-build firm intends to manage, administer, coordinate, and complete all phases, elements, needs and requirement of the design-build project with emphasis on design quality control and construction quality assurance. The technical proposal should address, but is not limited to, preliminary designs, plans and specifications, and schedules for design and construction.

(iii) The price proposal must include all costs and expenses to be incurred by the design-build firm for completing the project in accordance with the design criteria package.

(b) Qualification Based Selection Process. If a qualification based process is used, it must comply with the CCNA process applicable to the Design-Build as stated in Section 287.055, Florida Statutes, including the following:

(i) Phase I – Qualifications. Firms will be selected based on their qualifications as stated in Section 287.055, Florida Statutes. Only those firms qualified under Phase I will be invited to participate in Phase II of the process.

(ii) Phase II – Technical and Price Proposal. Shortlisted firms will be requested to submit technical and price proposals. These proposals will be evaluated based on the weighted criteria stated in the solicitation. The proposal from the selected firm will form the basis for contract negotiations and award of the Design-Build Contract.

(iii) The Evaluation criteria for Phase I and Phase II may include, but is not limited to the following criteria as it applies to the project:

- Design-Build Firm and qualifications.
- Contractor qualifications.
- Professional consultant qualifications.
- Performance history with other governmental Agencies.



- Design-Build project experience of the contractor and professional consultant.
- Similar type of work experience.
- Environmental record.
- Design-Build Firm organization.
- Design-Build Firm staffing plan.
- Time Line – Schedule.
- Understanding of Design-Build Project requirements
- Identification of critical issues
- Guaranteed Maximum Price.

(4) Waiver. The County Commission may waive some or all of the requirements of this section where a good faith estimate of the construction cost is less than the category five threshold set forth in Chapter 287.017, Florida Statutes, or where the County Commission determines that a valid public emergency exists.

**3.5516 CHANGES AFTER AWARD.** If there is a major change that is outside the scope of the original project or procurement as determined by the Purchasing and Contracts Division Manager, a solicitation must be issued as a new procurement unless an emergency, Sole Source or proprietary source situation exists. If an emergency, Sole Source or proprietary situation exists, procurement must be made pursuant to procedures as outlined in Section 3.5523 of this Code and Section 220.41 of the Seminole County Code.

**3.5517 REMEDIES FOR SOLICITATIONS OR AWARDS IN VIOLATION OF LAW.**

(1) Prior to Bid Opening or Closing Date for Receipt of Proposals: If, prior to bid opening or the closing date for receipt of proposals, the Purchasing and Contracts Division Manager, after consultation with the County Attorney, determines that a solicitation is in violation of federal, state or county law, the solicitation must be canceled or revised to comply with applicable law.

(2) Prior to Award: If, after bid opening or the closing date for receipt of proposals, the Purchasing and Contracts Division Manager, after consultation with the County Attorney, determines that a solicitation or a proposed award of a contract is in violation of federal, state or county law, the solicitation or proposed award must be canceled.

(3) After Award: If, after an award, the Purchasing and Contracts Division Manager, after consultation with the County Attorney, determines that a solicitation or award of a contract was in violation of federal, state or county law, action must be taken as required by the provisions of the law violated, or, if no specific action is required, then the following apply:



(a) If the vendor awarded the contract has not acted fraudulently or in bad faith:

(i) The contract may be ratified and affirmed, provided it is determined that such action is in the best interest of the County; or

(ii) The contract may be terminated and the vendor awarded the contract will be compensated for the actual expenses reasonably incurred under the contract, plus a reasonable profit based on the portion of the contract services completed prior to the termination.

(b) If the vendor awarded the contract has acted fraudulently or in bad faith, the contract may be declared null and void or voidable, if such action is in the best interest of the County.

**3.5518 REVERSE AUCTIONS.** Reverse Auctions are downward price procurement methods in which suppliers lower their prices in real time until the auction closes. Purchasing and Contracts Division staff will post the requirement and vendors will actively bid to provide lower pricing in an effort to receive the award. This method is useful for requirements that are well defined and commercial in nature that do not require any discussion, evaluations of proposal and would result in a cost saving to the County.

**3.5519 SMALL PURCHASES/MISCELLANEOUS CONTRACTS (EXCEPT FOR PROFESSIONAL SERVICES (PS)) CONSULTANT COMPETITIVE NEGOTIATION ACT (CCNA).**

(1) Any purchase for an amount less than the Mandatory Bid Amount may be made in accordance with those procedures promulgated in the County Manager's Policies, but no purchase may be artificially divided to constitute a small purchase under this Section. The Mandatory Bid Amount is FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00). Written quotes must be obtained by the Purchasing and Contracts Division for purchases between TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00) and FORTY-NINE THOUSAND NINE HUNDRED NINETY-NINE AND 99/100 DOLLARS (\$49,999.99). Informal quotes must be obtained by the Purchasing and Contracts Division and/or User Department for purchases between FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00) and TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00.) and a competitive environment should be utilized unless it is exempt from the competitive process under Chapter 220, Seminole County Code, Purchasing Code or this Code. Departments and Divisions shall maintain documentation with their requisition on all quotes received or as to why competition was not obtained. All purchase prices must be considered fair and reasonable. Award will be made to the vendor offering the lowest acceptable quotation. The name of the vendor submitting a quotation, and the date and amount of each quotation, will be recorded and maintained as a public record.

(2) Per Section 220.12 (b) of the Seminole County Code, the Purchasing and Contracts Division is authorized to piggyback from GSA Federal (as applicable), State of Florida, Cooperatives and other local agencies' awarded agreements when such awarded agreements offer significant benefits. This procurement option may provide favorable pricing and reduce the costs associated with preparing specifications and the



administration cost of issuing the solicitations. “Piggyback” is a procedure of procuring goods or services without the formal procurement process by utilizing another public agency’s awarded agreement that results from a formal solicitation process. This method is not to be used to circumvent the Board’s normal competitive procurement policies and procedures in seeking the best value for our citizens. The piggyback must be in accordance with all the terms and conditions, prices, scopes, and other criteria as stated in the already awarded agreement. Any changes to another agency’s awarded agreements, including conditions, scope of services, and other provisions, are prohibited. The Purchasing and Contracts Division will determine if the proposed purchase conforms to the piggybacking of another agency’s awarded agreement or if the Board’s normal procurement process must be followed.

The following information is required to be part of the review process for all piggybacks:

(a) A full copy of the piggyback entity’s formal competitive solicitation, evaluation, bid/proposal, and awarded agreement. Only competitive full and open solicitations are eligible for piggyback.

(b) Vendor’s pricing at time of award.

(c) Vendor’s confirmation or quote on letterhead that offers the same prices, under the same terms and conditions as indicated in the awarded agreement. E-mail correspondence will be accepted.

(d) Insurance compliance required (COI). Only procurement of goods and services can be “piggybacked”; sale or trade-ins must be handled separately. “Piggybacks” are not permissible for use on federally funded projects that are administered through the Local Agency Program (LAP), services required under the Consultants Competitive Negotiation Act (see Section 189.053, Florida Statutes), or that include special federal grant procurement requirements (Davis Bacon Act, Buy American, Minority Business set aside, etc.).

**3.5520 SALES TAX RECOVERY (RESOLUTION NO. 96-R-177).** When a construction project is proposed, it will be determined prior to the bid or proposal process if Sales Tax Recovery Program will be utilized. Nothing in this Code or this Program prohibits the County from deleting items within the Invitation for Bid and purchasing such items directly from a supplier, without further bidding, in an effort to benefit from the County’s tax exempt status. When the County undertakes the construction of new or renovated facilities, the Sales Tax Recovery Resolution No. 96-R-177 will apply when deemed to be in the best interest of the County. The purchasing provisions for Sales Tax Recovery in County bid documents may be integrated with the purchasing criteria provided by the Florida Department of Revenue. Such integration will permit Seminole County’s awarded general contractor for construction of new or renovated facilities to solicit material bids and to require issuance of Seminole County purchase orders, which will be authorized by the Seminole County Purchasing and Contracts Division Manager or Designee. Such purchases will be exempt from the County’s Purchasing Code, preserving the sales tax exemption to the benefit of Seminole County.



**3.5521 DIRECT PAY.** Certain purchases, due to their very nature, are exempt from the competitive bid requirements. Only those items and services listed under Section 220.2(b), Seminole County Code, are exempt. User Department or Division can utilize the direct method and submit the request for payment directly to the Comptroller's Office.

**3.5522 CONTRACT CLAUSES AND THEIR ADMINISTRATION.** All County contracts for supplies, services and construction must include provisions necessary to define the responsibilities and rights of the parties to the contract. The Purchasing and Contracts Division Manager or Designee, after consultation with the County Attorney's Office, may issue clauses providing for adjustments in prices, time of performance, audit, cost principles to be used to determine allowability of cost or other provisions as appropriate for supply, service or Construction Contracts, addressing, but not limited to, the subjects defined in this Code.

**3.5523 SOLE SOURCE/SINGLE SOURCE/PROPRIETARY SOURCE.** Contracts that exceed the mandatory bid limit may be awarded without competition by the appropriate level of authority. However, the Purchasing and Contracts Division Manager or Designee shall determine in writing, after conducting a good faith review of available sources, that there is only one source or a proprietary source for the required supply, service or construction item. The Purchasing and Contracts Division Manager or Designee shall conduct negotiations, as appropriate, as to price, delivery, and terms.

**3.5524 BRAND NAME OR EQUAL SPECIFICATIONS.**

(1) County specifications that are described in Scopes of Services are to be competitive (non-restrictive) for "full and open" competition, describing the County's minimum requirements. Brand name or equal specifications may be used when the Purchasing and Contracts Division Manager determines that:

- (a) No adequate design or performance specification or qualified products list is available;
- (b) Time does not permit the preparation of another form of purchase description, not including a brand name specification;
- (c) The nature of the product or the nature of the County's requirements makes use of a brand name or equal specification suitable for the procurement; or
- (d) Use of a brand name or equal specification is in the County's best interest.

(2) Use: Since use of a brand name specification is restrictive of product competition, it may be used only when the Purchasing and Contracts Division Manager and the Department Director make a written determination that only the identified brand name item or items will satisfy the County's needs or where procurement has been standardized as provided in this Code.

(3) Competition: The Purchasing and Contracts Division Manager shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of price competition is





practicable. If only one source can supply the requirement, the procurement must be made under Section 3.5523 (Sole Source Procurement) of this Code.

**3.5525 BUY AMERICAN/RECYCLABLE PRODUCTS.** If a contract is being funded, in whole or in part, by assistance from a federal agency, then the County shall comply with the appropriate "Buy American" requirements, if any, of the federal agency providing the assistance.

**3.5526 COUNTY PROCUREMENT RECORDS.**

(1) Contract File: All determinations and other written records pertaining to the solicitation, award, or performance of a contract will be maintained for the County in a contract file in the Purchasing and Contracts Division.

(2) Retention of Procurement Records: All procurement records will be retained in an electronic format and disposed of by the County in accordance with records retention guidelines of the State of Florida.

**III CONTRACT ADMINISTRATION**

**3.5527 PURPOSE.** To manage and monitor all facets of a contract to ensure that contractor performance is in accordance with contractual commitments and that all County contractual rights are satisfied and obligations are fulfilled, as established by the Board or its authorized Designees.

**3.5528 DIRECTIVES.**

(1) The Purchasing and Contracts Division shall determine if it is in the best interest of the County to enter into a contractual agreement. The Purchasing and Contracts Division can assist with improving countywide contract administration. In addition, the Purchasing and Contracts Division shall assist individual Departments and Divisions in complying with County Purchasing policies, procedures and code. It is the Department or Division's responsibility to ensure contract compliance and take the necessary steps to document contract performance related issues.

(2) The Purchasing and Contracts Division, in conjunction with the County Attorney's Office, is responsible for overseeing contract policies and procedures. The County Attorney's Office is charged with the responsibility of developing the contract and ensuring that all contractual agreements that Purchasing processes are legally and responsibly in compliance with Florida Statutes, County Code, resolutions, procedures, ordinances, and federal law, as applicable. The User Department Director has the primary responsibility of ensuring that contracts are properly administered in compliance with Seminole County Code, resolutions, procedures, contract compliance requirements and Board Action.

(3) Contract administration entails creating a plan and then monitoring performance throughout the many, varied activities that can occur during the project execution. Key contract administration activities include ensuring compliance with contract terms and conditions, providing contract oversight on the project milestones and deliverables, managing contract changes, invoices and payment, managing any property



issues, including sales tax recovery program, assisting in claims and dispute resolution, proper closeout procedures and the strategic planning of the follow-on reprourement efforts.

(4) In lieu of obtaining Board approval by the agenda process for exercising the renewals and options on Board approved contracts, the funds will be approved via the budget process each fiscal year the contract is in effect. The Department or Division office should state within the annual budget, under the appropriate account number, the type of services, contractor's name and the estimated dollar amount for that fiscal year.

(5) It is the responsibility of the Department or Division to monitor contract deliverables and milestone dates of the projects.

(6) After contract award, administrative correspondence pertaining to contract administration can be signed by the County Manager or Purchasing and Contracts Division Manager or Designee providing that it does not change the contract terms and conditions. This includes all documents associated with final acceptance and close out of construction documents.

**3.5529 CONTRACT COMPLIANCE.** The Purchasing and Contracts Division shall assist User Departments or Divisions in complying with contract administration ~~code~~ and procedures. The Project Manager should complete a performance evaluation or review form upon completion of a major project to document contractor's performance. The Purchasing and Contracts Division shall represent the County as a whole and shall balance contracting interests of the County with those of individual Departments or Divisions. User Departments or Divisions and the Project Manager are responsible for contract compliance, specifically including the following:

(1) Contract Funding: Cost and qualitative analysis shall occur at the organizational level where contract funding decisions are made.

(2) Contract Monitoring: The User Department is responsible for the monitoring of the contract related to contractor performance and must process all invoices in strict conformance with the contract terms and conditions.

(3) Contract Renewal Decisions: The decision to renew a contract will include an assessment by the User Department of the contractor or consultant's performance. This assessment will provide a justification for making renewal decisions. If the evaluation indicates substandard contractor or consultant performance, a plan for corrective action will be drafted. Alternatively, the decision can be made not to renew the contract and obtain new proposals from qualified suppliers.

(4) Retroactive Contracts: An award of a contract cannot be retroactive. A contract is not legally binding until all parties have signed the contract document. In certain cases when it is in the best interest of the County, the Purchasing and Contracts Division may issue a letter to the contractor to begin performance if the award of the contract has been approved by appropriate authority. When contractors begin providing services before a new or existing contract is fully approved, signed or renewed, the commitment is referred to as unauthorized and must be processed as described in



Section 220.16 of the Purchasing Code. It is the Department or Division's responsibility to plan accordingly to ensure that unauthorized commitments are avoided. The County will not be responsible for payment of services or goods under an unauthorized commitment.

#### **IV BONDS AND BID SECURITY**

**3.5530 SURETY BONDS.** The Purchasing and Contracts Division is responsible for ensuring that Surety Bonds are maintained.

#### **3.5531 BID SECURITY.**

(1) Requirement for Bid Security: Bid security is required for all competitive sealed bidding for capital improvement Construction Contracts if the price is estimated to exceed TWO HUNDRED THOUSAND AND NO/100 DOLLARS (\$200,000.00) or if deemed appropriate by the Purchasing and Contracts Division Manager or Designee. Bid security means an original bond provided by a surety company authorized to do business in the State of Florida or the equivalent in the form of a cashiers or certified check. The Purchasing and Contracts Division Manager may require bid security for other types of bids and RFPs.

(2) Amount of Bid Security: The amount of the bid security will be indicated in the Contract Documents.

(3) Rejection of Bids for Noncompliance with Bid Security Requirements: If the Invitation for Bid or RFP requires security, noncompliance requires that the bid be rejected.

(4) Withdrawal of Bids: If a bidder is permitted to withdraw its bid before award, no action may be brought against the bidder or the bid security.

#### **3.5532 CONTRACT PERFORMANCE BONDS AND PAYMENT BONDS.**

(1) As determined by the Purchasing and Contracts Division Manager or Designee or mandated by Florida Statutes the contractor shall submit an executed, dated, certified copy of the Performance and Payment Bonds and any other required bond for the full and faithful performance of the contract in accordance with its terms and intent.

(a) A performance bond satisfactory to the County, executed by a surety company authorized to do business in the State of Florida or otherwise secured in a manner satisfactory to the County, in an amount equal to one hundred percent (100%) of the price specified in the contract.

(b) A payment bond satisfactory to the County, executed by a surety company authorized to do business in the State of Florida or otherwise secured in a manner satisfactory to the County, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond must be in an amount equal to one hundred percent (100%) of the price specified in the contract.



(2) Authority to Require Additional Bonds. Nothing in this Section may be construed to limit the authority of the County to require a performance bond or other security in addition to those bonds or in circumstances other than specified in this Section.

**3.5533 REQUIREMENTS.** Sureties for all bid bonds, performance bonds and payment bonds must be included on the U.S. Department of Treasury listing of approved sureties.

**V DEBARMENT OR SUSPENSION**

**3.5534 AUTHORITY TO DEBAR OR SUSPEND.** The Purchasing and Contracts Division Manager may suspend or debar for cause the right of a vendor to be included on a vendor list and any bid or response from that vendor may be rejected, but the Board has the authority to waive or remove such suspension or debarment.

**3.5535 SUSPENSION.** A vendor may be suspended for a period not to exceed three (3) years as determined by the Purchasing and Contracts Division Manager based upon the following:

(1) Vendor defaults or fails to fully comply with the conditions, specifications, time limits, or terms of a bid, quotation, proposal or contract with the County; or

(2) Vendor commits any fraud or misrepresentation in connection with a bid, quotation, proposal or contract with the County; or

(3) Vendor is convicted by a court of competent jurisdiction of a criminal offense incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract; or

(4) Vendor is convicted by a court of competent jurisdiction of any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a County contractor.

(5) Confirmation that a vendor has been convicted of any charges specified under items 3 and 4 will be ascertained by contacting Clerk of the Court of the County and requesting the "Judgement and Sentence Form" for a felony and the disposition or minutes of the court action for a misdemeanor.

(6) Vendor becomes insolvent, has proceedings of bankruptcy instituted against it, or compounds all debts or assigns over its estate or effects for payment of debts, or has a receiver or trustee appointed over its property; or

(7) Vendor commission of any act or omission to perform any act which is grounds for debarment; or

(8) Vendor violates the ethical standards set forth in County, State or Federal law; or



(9) Vendor fails to comply with the M/WBE participation or M/WBE requirements as may be established in an awarded contract.

(10) Any other cause the Purchasing and Contracts Division Manager determines to be sufficiently serious and compelling as to materially and adversely affect responsibility of a business as a County contractor, including, but not limited to, suspension or debarment by another governmental entity for cause.

**3.5536 DEBARMENT.** A vendor may be permanently debarred for the following:

(1) Default or failure to fully comply with the conditions, specifications, drawings, time limits, or terms of an Invitation for Bid, Request for Proposal or contract with the County twice in any three (3) year period.

(2) Conviction or judgment in a court of competent jurisdiction for commission of any offense listed in Chapter 220, Seminole County Code, in connection with the vendor's commercial enterprise. If the conviction or judgment is reversed through the appellate process, the debarment will be removed immediately upon written notification and proof of final court disposition from the vendor to the County.

**3.5537 DECISION.** After the Purchasing and Contracts Division Manager has determined he or she has cause to suspend or debar a vendor and has the concurrence of the County Attorney's Office, he or she shall notify the vendor in writing of the debarment or the period of suspension and the reasons for the action taken. A copy of this decision will be provided to all Board members.

**3.5538 PUBLIC ENTITY CRIME.** Any vendor who has been convicted of a public entity crime as defined by Section 287.133, Florida Statutes, will not be eligible to transact business with the County to the extent as specified in Section 287.133(3)(a), Florida Statutes.

**3.5539 FINALITY OF DECISION.** The suspension or debarment will be final and conclusive unless the suspended or debarred vendor initiates protest proceedings within thirty (30) business days after the date of notification.

## **VI PROTESTS, APPEALS AND REMEDIES**

### **3.5540 PROTESTS.**

(1) Right to Protest: Only a bidder, proposer, offeror, or contractor (collectively in this Section 3.5540, "bidder") that submits proposals are eligible to submit a protest after Bid opening or Proposal closing. If a solicitation has been cancelled and posted on the website, protests will not be accepted.

(2) Posting: The Purchasing and Contracts Division shall post a recommendation of award or staff recommended ranking at the location where bids or proposals were or on the County's website, Purchasing and Contracts Division webpage, in the bid tabulation section.

(3) Protest Submission: A formal written protest must be filed no later than 5:00 p.m., Sanford, Florida time, five (5) business days after the posting date of the award



recommendation or the posting of staff recommended ranking on the internet. The bidder has the responsibility to contact the County and request the award recommendation results. The failure to contact the County for the award recommendation or recommended ranking results to determine if a protest is warranted will be considered lack of due diligence and a protest received after the five (5) business days specified will not be considered.

- (4) The formal written protest must include all of the following:
  - (a) Identification of the protesting bidder and the solicitation involved.
  - (b) A clear statement of the grounds on which the protest is based.
  - (c) Identification of the statutes, laws, ordinances, or other legal references that the protesting bidder contends are applicable to such protest.
  - (d) Identification of the relief to which the protesting bidder deems itself entitled.

The protesting bidder must submit a hard copy of the formal written protest to the Purchasing and Contracts Division Manager or Designee within the timeframe specified in Section 3.5540(3) of this Code. All exempt proposal and procurement information pertaining to the solicitation or award that is being protested will be provided to the protesting vendor at time of protest upon request.

(5) Receipt of Protest: A protest is not timely filed unless it is received in hard copy form by the Purchasing and Contracts Division within the times specified in Section 3.5540(3) of this Code. Failure to file a formal written protest within the time period specified will result in relinquishment of all rights of protest by the vendor and abrogation of any further bid protest proceedings.

(6) General: These protest procedures are the sole administrative remedy for challenging an award of bid or proposal. Bidders are prohibited from attempts to influence, persuade, or promote the award of the contract at issue through any other channels or means. Such attempts will be cause for suspension in accordance with Chapter 220, Seminole County Code, Purchasing Code or this Administrative Code.

(7) Stay of Procurements during Protests: In the event of a timely protest under this Section, the Purchasing and Contracts Division Manager shall not proceed further with the solicitation or award of the contract until a written determination is made by the Purchasing and Contracts Division Manager and approved by the County Manager or until the County Manager makes a written determination for the record that the award of a contract, without delay, is necessary to protect substantial interests of the County.

(8) Authority to Resolve: The Purchasing and Contracts Division Manager must attempt to resolve the protest in a fair and equitable manner, and must render a written decision to the protesting bidder within thirty (30) business days after the date of receipt of the protest.



(9) Appeal Process: The Purchasing and Contracts Division Manager's decision will be final and conclusive unless, within five (5) business days of receipt of the written decision, the protesting bidder delivers a written notice of appeal to the Purchasing and Contracts Division Manager with an appeal bond. An advisory appeal committee, consisting of three (3) County representatives, other than the Purchasing and Contracts Division Manager, appointed by the User Department Director and County Manager or Designee, will have the authority to review the appeal and make recommendations to the County Manager. The Appeal Committee must conduct a hearing where the aggrieved bidder will be given the opportunity to show why the decision of the Purchasing and Contracts Division Manager should be modified. The Appeal Committee must render a written recommendation within thirty (30) business days from the date of the written notice of appeal. The formal rules of civil and appellate procedure and evidence will not apply. The Appeal Committee must render a final written recommendation to the County Manager. The County Manager must render his or her final written decision within five (5) business days after the date of the recommendation. If no decision is rendered within this time frame, it will be presumed that the County Manager concurs in the Appeal Committee's decision and the decision of the Appeal Committee will be the final and conclusive administrative action.

(10) Appeal Bond: Any person who files an appeal of the Purchasing and Contracts Division Manager a decision must post with the Purchasing and Contracts Division Manager, at the time of filing the formal written appeal, a bond payable to the County in an amount equal to five percent (5%) of the County's estimate of the total contract value or FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00), whichever is less. The bond must be conditioned upon the payment of all costs that may be adjudged against appellee in the administrative hearing in which the action is brought and in any subsequent appellate court or court proceeding. In lieu of a bond, the County may accept a cashier's or certified check, or money order in the above referenced amount. If, after completion of the administrative hearing process and any court or appellate court proceedings, the County prevails, it will be entitled to recover from the bidder appealing the decision all costs and charges, which will be included in the final order or judgment, excluding attorney's fees. Upon payment of such costs and charges by the bidder appealing the decision, the bond, cashier's check, or money order will be returned to such bidder. If the bidder appealing the decision prevails, that bidder will be entitled to recover from the County all costs and charges, which will be included in the final order or judgment, excluding attorney's fees.

(11) Reservation of Powers to Settle Actions Pending before the Courts: Nothing in this Section is intended to affect the existing powers of the Board to settle actions pending before the courts.

(12) In the event that the Board awards a contract without a staff award recommendation as provided in Section 3.5540(2)-(3) of this Code, then Section 3.5540(1)-(11) of this Code does not apply and the decision of the Board to award the contract will be final.



**3.5541 CONTRACT CLAIMS.**

(1) Decision of the Purchasing and Contracts Division Manager: All claims by a contractor against the County relating to a contract must be submitted in writing to the Purchasing and Contracts Division Manager for a decision. Claims include, without limitation, controversies arising under a contract, and those based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission.

(2) Notice to the contractor of the Purchasing and Contract Division Manager's Decision: The decision of the Purchasing and Contracts Division Manager must be issued in writing, and must be mailed or otherwise furnished to the contractor. The decision must state the reasons for the decision reached, and must inform the contractor of its appeal rights.

(3) Finality of Purchasing and Contracts Division Manager's Decision; Contractor's Right to Appeal: The Purchasing and Contracts Division Manager's decision will be final and conclusive unless, within five (5) business days from the date of receipt of the decision, the contractor delivers a written appeal to the Purchasing and Contracts Division with an appeal bond.

(4) Render Timely Decision: The Purchasing and Contracts Division Manager, with concurrence of the County Attorney, shall issue a written decision regarding any contract controversy within sixty (60) business days after written request for a final decision, or within such longer period as may be agreed upon between the parties.

(5) Appeal Process: Any person aggrieved by the decision of the Purchasing and Contracts Division Manager must deliver a written appeal within five (5) business days of receipt of the written decision to the Purchasing and Contracts Division Manager with an appeal bond. An advisory appeal committee, consisting of the User Department Director or Division Manager and other County representatives, has the authority to review the appeal and render a written recommendation to the County Manager. The Appeal Committee must conduct a hearing where the aggrieved person will be given the opportunity to show why the decision of the Purchasing and Contracts Division Manager should be modified. The Appeal Committee must render a written recommendation within sixty (60) business days from the date of the written notice of appeal and the County Manager must render a final decision within five (5) business days from the date of the recommendation. If no decision is rendered within this time frame, it will be presumed that the County Manager concurs in the Appeal Committee's decision and the decision of the Appeal Committee will be the final and conclusive administrative action.

**3.5542 RIGHT TO PROTEST AWARD OF CERTAIN CONTRACTS AWARDED BY THE BOARD.**

(1) This Section is applicable solely to protests filed by a recommended vendor after the award of a contract by the Board of County Commissioners was to other than that recommended vendor.





(2) Upon receipt of the written notice of protest, the Purchasing and Contracts Division Manager must schedule a hearing before the Board of County Commissioners. The aggrieved person will be given an opportunity to show why the award of contract by the Board of County Commissioners should be modified.

(3) The decision of the Board of County Commissioners will be the final and conclusive administrative action.

## VII PURCHASING CARD

**3.5543 METHOD OF OPERATION.** The following are the County's operational policies governing Purchasing Cards:

(1) Cardholder Spending Limits:

(a) The delegation of purchasing authority that the card provides to each cardholder sets the maximum dollar credit limit amount per month. Each time a cardholder makes a purchase with the card, the limit will be checked, and the authorization request will be declined should the purchase amount exceed the available credit amount. The maximum credit limit amount is set at TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00) and cannot be exceeded without the express approval of the County Manager. Each cardholder's credit limit is recommended by the cardholder's supervisor on the "Purchasing Card Request Form" and must be approved by the cardholder's Department Director and by the Purchasing Card Program Manager. Requests for a credit limit exceeding TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00) must be justified in writing and approved by the County Manager prior to submission to the Purchasing Card Program Manager.

(b) The County's single item purchase limit for goods is set to a maximum of NINE HUNDRED NINETY-NINE AND 99/100 DOLLARS (\$999.99). This purchase limit for goods may not be exceeded without the approval of the County Manager.

(c) The total transaction purchase(s) limit is defined as the maximum dollar limit per card. The total transaction purchase limit is set at THREE THOUSAND AND NO/100 DOLLARS (\$3,000.00) and cannot be exceeded without the express approval of the County Manager. Each cardholder's total transaction purchase limit is recommended by the cardholder's supervisor on the "Purchasing Card Request Form" and must be approved by the cardholder's Department Director and by the Purchasing Card Program Manager. Requests for a total transaction purchase limit exceeding THREE THOUSAND AND NO/100 DOLLARS (\$3,000.00) must be justified in writing and approved by the County Manager prior to submission to the Purchasing Card Program Manager.

(d) The daily transaction limit is defined as the number of credit card transactions allowed in a twenty-four (24) hour period. The maximum daily transaction limit is set at ten (10) transactions per day and cannot be exceeded without the express approval of the County Manager. Each cardholder's daily transaction limit is recommended by the cardholder's supervisor on the "Purchasing Card Request Form"



and must be approved by the cardholder's Department Director and by the Purchasing Card Program Manager. Requests for a daily transaction limit exceeding ten (10) per day must be justified in writing and approved by the County Manager prior to submission to the Purchasing Card Program Manager.

(2) Purchasing Card Use:

(a) The Purchasing Card is to be used for COUNTY PURPOSES ONLY. The Purchasing Card may be used for all legitimate county purchases unless specifically prohibited in this Section. The Purchasing Card can be used for those items listed in Section 220.2(b), Seminole County Code, that are exempted from the purchasing process except for those items on the Do Not Buy List located on the Intranet. The Purchasing Card can be used for travel expenses if authorized by the Department Director.

(b) The Purchasing Card has the cardholder's name embossed on it and is to be used only by that cardholder. No other person is authorized to use the card. Lost or stolen cards must be reported to the issuing bank and to the Purchasing Card Program Manager immediately on discovery.

(c) All requests for initial issue of Purchasing Cards and for travel usage must be justified in writing and approved by the cardholder's Department Director. Purchasing Cards will be issued by name to employees who have been approved.

(d) Each transaction may consist of multiple items, but each item(s) cannot exceed the single item purchase dollar limit and the transaction must be limited to THREE THOUSAND AND NO/100 DOLLARS (\$3,000.00). Purchases will be denied if the authorized monthly purchase limit, the single purchase limit, or the daily transaction limit is exceeded. Purchases are not to be split in order to stay within the single transaction purchase limit.

(e) All items purchased over the counter to be paid by using the card must be immediately available. Back-ordering is not permitted.

(f) All items purchased during one telephone or Internet transaction that will not be confirmed by a written order must be delivered in a single delivery. No back-ordering is allowed.

(g) The Purchasing Card MUST NOT be used to purchase fuel, oil, personal items, telephone calls, or tangible personal property as defined by the Florida Statutes, exception is authorized by travel card.

(h) The Purchasing Card MUST NOT be used to make cash advances or to write VISA checks.

(i) Purchases may be made by telephone or the Internet when the supplies or services can be described in sufficient detail so that the parties to the transaction have a clear understanding of what is being acquired.



(j) When a purchase is made that will be paid using the card, whether it is done over the counter, over the internet or by telephone, a document must be retained as proof of purchase. These documents will later be used to verify the purchases shown on the cardholder's monthly statement.

(k) All requests for travel must be in accordance with the County's travel policy.

(l) Other conditions of use as stated in the County Manager's Policies and Procedures.

(3) Purchasing Card Training:

(a) Initial Training: Each cardholder will be provided with initial training prior to issuance of the Purchasing Card. The training will cover the proper use and restrictions of the Purchasing Card.

(b) Annual Training: Training will be provided at least once per year. Annual training will be mandatory for all cardholders and all approving officials. Cardholders missing the scheduled annual training will be given an opportunity to take makeup training. Failure to accomplish mandatory annual training will result in loss of card privileges. Approving officials who miss the scheduled annual training will be given an opportunity to makeup training. Failure to accomplish mandatory annual training will result in loss of Approving Official authority and cardholder privileges for cardholders reporting to that official.

(4) Emergency Purchasing Cards: The Purchasing and Contracts Division has four (4) Purchasing Cards designated as "Emergency Purchasing Cards". These cards are secured in the Purchasing and Contracts Division's office and are only to be used in the event of a declared emergency as provided in Section 220.41, Seminole County Code. Emergency Purchasing Cards are only to be used by Purchasing and Contracts Division personnel or other County employees designated by the County Manager. Purchases made with Emergency Purchasing Cards must follow procedures outlined in this Code. However, during declared emergencies, Emergency Purchasing Cards may be used without regard to dollar limits or exempt items. Any purchase that could be made with a purchase order may be made with the Emergency Purchasing Card during emergencies.

(5) Special Purchasing Card: A special Purchasing Card can be used by the Purchasing and Contracts Division to process the payment of goods and services that have been procured by the Purchasing and Contracts Division. The use of this card will be coordinated with the Comptroller's Office, and payment of certain orders will be accomplished by the Purchasing and Contracts Division instead of issuing a check by the Comptroller's Office. By using this special card for payment, the County increases rebates under the Purchasing Card program, therefore creating additional revenue and efficiencies for the County. The County Manager's Policies and Procedures will describe the procedures for this special card.



(6) Purchasing Card Program Internal Controls:

(a) The Purchasing Card Program Manager will establish automated card restrictions as allowed by the issuing bank's software. Restrictions will be in compliance with this Code and County Manager's Policies. The Program Manager will establish a Comptroller's Office account allowing access to the issuing Bank's database. This will allow the Comptroller's Office to view cardholder information and statements online.

(b) The Comptroller's Office will review each statement and supporting documentation. The Comptroller's Office will contact the Department delegate or the cardholders directly and attempt to resolve any statement discrepancy found. If unable to resolve the issue with the delegate or the cardholder directly, the Comptroller's Office will elevate the problem to the Purchasing Card Program Manager for resolution. A form will be used to assist and document the issue. In addition, the Comptroller's Office will notify the Purchasing Card Program Manager of all missing signatures, discrepancies, late statements, or suspicious purchases so the Program Manager may investigate and take appropriate action.

**3.5544 DISCIPLINARY ACTION GUIDELINES.** Improper or unauthorized use of the Purchasing Card:

(1) The Purchasing Card Program Manager's responsibility:

(a) Any incident of improper or unauthorized use of the card must be immediately reported to the Purchasing Card Program Manager.

(b) The Purchasing Card Program Manager may suspend or terminate cardholder privileges for improper or unauthorized use.

(c) Failure to submit monthly statements and reports related to cardholder activity within the time periods specified in the County Manager's Policies and the Purchasing Code may result in the following:

- First Offense: Suspension of cardholder privileges for a minimum of seven (7) days.
- Second Offense: Suspension of cardholder privileges for a minimum of thirty (30) days.
- Third Offense: Immediate termination of cardholder privileges and a written reprimand from the Purchasing Card Program Manager to be maintained in the employee's County personnel file.

(d) The Purchasing Card Program Manager will notify the County Manager of the violation above and any action that was taken.



(2) The County Manager's responsibility:

(a) The appropriate disciplinary action will be dispensed by the County Manager based on consultation with the individual cardholder, the cardholder's supervisor, and the Purchasing Card Program Manager. Depending on the circumstances and the severity of the infraction, the County Manager may delegate this responsibility to the cardholder's Department Director.

(b) Improper or unauthorized use of the card may result in any or all of the following:

- Written reprimand, placed in the cardholder's personnel file.
- Three days suspension without pay.
- Termination of employment with Seminole County.
- In addition to any administrative and disciplinary action that may be taken, the employee may be required to reimburse the County for the total amount of the improper charges through payroll deduction or direct payment.

## VIII ETHICAL CONSIDERATION

### 3.5545 SANCTIONS.

(1) Ethics in Public Contracting: No employee, officer, or agent of the contractor may participate in the selection, award, or administration of a contract with Seminole County if a conflict of interest, real or apparent, is involved. All information defined under Seminole County Personnel Policy in this Code applies to contract compliance. A conflict can exist whenever a contractor or consultant's interests are at odds with the interests of the County or the public it serves. Disclosure to the Purchasing and Contracts Division is required when a contract decision maker has a conflict of interest with a person or organization with whom they are affiliated. Affiliation can include organizations the employees or their immediate family own, work for as an employee, or represent as an agent. Gratuities and kickbacks are not allowed.

(2) Employees: Violations of the ethical standards in the Seminole County Code will constitute a major offense under Seminole County Personnel Policies and an employee will be subject to the sanctions provided under these Policies for their violation.

(3) Non-employees: The County Manager may impose any one or more of the following sanctions on a non-employee for violations of the ethical standards:

- (a) Written warnings or reprimands;
- (b) Termination of contracts; or
- (c) Debarment or suspension as provided in this Code.



## **IX SMALL BUSINESS/MINORITY/WOMEN**

**3.5546 SMALL BUSINESS/MINORITY/WOMEN/ENTERPRISES.** To facilitate increased participation from small business enterprises, including minority and women owned businesses, the Purchasing and Contracts Division shall undertake the following:

- (1) Encourage maximum participation of small business enterprises, including minority and women owned businesses, in all Seminole County procurements.
- (2) Provide assistance to any vendor requesting assistance.
- (3) Participate in workshops and programs sponsored by the County or other federal, state, county or municipal governments that are intended to educate, certify, or promote a greater participation of small business enterprises, including minority and women owned businesses.

## **X BUSINESS LOCATION OF VENDOR OR CONTRACTOR**

**3.5547 BUSINESS LOCATION OF VENDOR OR CONTRACTOR.** The County has no preference for the business location of the vendor or contractor except if required by statutes, grants or law. If preference for location is required, it will be regional, consisting of all counties bordering Seminole County and Osceola County.

## **XI ELECTRONIC SIGNATURES**

### **3.5548 ELECTRONIC SIGNATURES.**

- (1) "Electronic Signature" means any letters, characters, or symbols, manifested by electronic or similar means, executed or adopted by a party with an intent to authenticate a writing.
- (2) A contract is electronically signed if an electronic signature is logically associated with such contract.
- (3) An electronic signature may be used to sign any contract, writing, bid, proposal, vendor registration document, affidavit, or similar submission for the purposes of procurement and contracting with the County and will have the same force and effect as a written signature. However, before an electronic signature is used on a contract or other document, the party to use an electronic signature shall file with the Purchasing and Contracts Division a facsimile of the electronic signature that is sufficiently authenticated.
- (4) The Purchasing and Contracts Division Manager is authorized to reject any contract or other document that is electronically signed and require a handwritten signature if the Purchasing and Contracts Division Manager has reason to believe the electronic signature is not authentic.



**AUTHORITY.** Resolution 2002-R-47 adopted March 26, 2002  
Resolution 2006-R-182 adopted August 8, 2006  
Resolution 2007-R-42 adopted March 13, 2007  
Resolution 2007-R-70 adopted April 10, 2007  
Resolution 2007-R-125 adopted July 24, 2007  
Resolution 2010-R-158 adopted July 27, 2010  
Resolution 2011-R-167 adopted September 13, 2011  
Resolution 2011-R-216 adopted December 13, 2011  
Resolution 2012-R-9 adopted January 10, 2012  
Resolution 2012-R-107 adopted June 12, 2012  
Resolution 2012-R-176 adopted September 25, 2012  
Resolution 2013-R-61 adopted February 12, 2013  
Resolution 2014-R-177 adopted September 9, 2014  
Resolution 2015-R-51 adopted March 10, 2015  
Resolution 2015-R-212 adopted December 8, 2015  
Resolution 2016-R-164 adopted October 11, 2016  
Resolution 2018-R-70 adopted May 22, 2018  
Resolution 2019-R-144 adopted August 27, 2019  
Resolution 2020-R-138 adopted November 10, 2020