

## 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 system of quality and integrity. The revised Purchasing Administrative Code approved by the Board will supersede and replace all other Administrative Code provisions, Policies and Procedures for implementing this part.

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

*Best and Final Offer (BAFO):* The last offer provided by an offeror in response to a Request for Proposal and all further negotiations cease. It is a method of clearing up any issues, restating the desired scope and allowing firms in the competitive range to update both the technical and price proposal.

*Contract administration:* The management of all facets of a contract to assure the Contractor's total performance is in accordance with the contractual commitments and that the obligations of the Contractor under the terms and conditions of the contract are fulfilled.

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

*Evaluation committee:* Recommendations for appointment of staff representatives of County government who have knowledge and interest in the project shall be suggested by the Project Manager for acquisition of professional and 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 services to be provided are estimated to be over \$1,000,000.00 per year, the County Manager or designee should be on the evaluation committee.

*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.

*Letter of renewal:* A document, generated by the County and approved by other party, to renew or extend the contract in accordance with the terms of the contract.

*Life cycle costing:* A cost-analysis tool which 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.

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

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

*Miscellaneous Agreement:* An Agreement, executed bilaterally for one-time professional services generally under \$25,000.00 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, on terms that are mutually beneficial and satisfactory to both.

*Project manager:* A person designated by his/her Department/Division/Office Director to ensure compliance with County codes, resolutions and procedures for contracts which he/she originates. The Project Manager, along with the Division Manager is held accountable for contract compliance.

*Proprietary purchase:* A purchase that occurs when 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 the Seminole County Administrative Code from any vendor that accepts a credit card. It will allow the cardholder to purchase approved commodities and services directly from our vendors within the transaction monthly limits established for each card holder. Each purchase card is issued to a named individual and the County is clearly shown on the card as the Governmental buyer of goods and services.

*Quotation:* Any oral or written informal offer by a vendor to the County to furnish specific goods and/or services at a stated price.

*Recycled/recyclable products:* Those products or materials which are defined as Recycled/Recyclable Products by Section 403.7065 (2), Florida Statutes, and U.S.C.

6901 et seq. “Resource Conservation and Recovery Act of 1976” and successor provisions.

*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 shall be as set forth in the Seminole County Administrative Code.

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

*Request for Information (RFI):* A solicitation for response from interested and prospective vendors/contractors to provide information to determine specifications, qualifications and/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 and/or service which will fulfill the need. Upon receipt of responses to the RFI, the County may develop specifications for an Invitation for Bids 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 and/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 and/or services over \$10,000.00 and under \$50,000.00 which contains a defined statement of specifications and/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 which 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:* 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 and/or services subject to such tax per Seminole County Resolution No. 96-R-177, Florida Statute 212.08 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.

*Small business enterprise:* A United States business which is independently owned and operated, does not primarily involve the practice of a profession, employs 25 or fewer permanent, full-time employees, and has assets of less than \$1,000,000.00.

*Sole source:* The only existing source of an item which meets the needs of the user department as determined by a reasonably thorough analysis of the marketplace.

*Specification:* A concise statement of a set of requirements to be satisfied by a product, material, service, or process used in an Invitation for Bids 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:* Florida Statutes, Section 286.011: 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 years.

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

*User department:* That department within the County government which requests and utilizes goods and/or services procured under this Code.

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

(1) Composition: The Committee shall be composed of the following officials and employees who shall 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 Committee. The Committee shall:

(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 Committee shall have 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 thereto.

(b) Review recommendations on standardization on the use of brands, makes and/or types of supplies or both. Standardization is authorized by the County Manager and 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 shall, until revised or rescinded, 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 utilizing the standard specification. The Committee must receive written documentation, requesting an exemption and stating why an exemption is needed. All specifications shall be definite and certain and shall 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 shall occur when necessary to reflect any technology advances/changes that shall occur when necessary to reflect any technological advances/changes that might make replacement more economical over the life expectancy of the system.

### **3.554 APPROVAL AUTHORITY.**

(1) The Board of County Commissioners has the right to award all contracts except as otherwise provided in the Seminole County Administrative Code. The Board of County Commissioners may, by resolution and amendment to this provision, delegate authority to award contracts for supplies, services, or construction to other County officials. Individuals that have been delegated authority will have to sign a "Statement of Responsibility" and will be held accountable for all actions occurring under their authority, in accordance with Section 112.3145(1)(a)(3), Florida Statutes. Anyone having authority to make any purchase exceeding the threshold amount provided for in Section 237.017, 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 which the Board retains the right of award, the Board shall have 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 shall have the authority to authorize purchases of goods and services in accordance with Section 220.41 (Emergency Procurement) and Article VIII, Purchasing Card, Subsection 3.5542.

(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 Director of Leisure Services shall have 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 will 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 will ensure that appropriate budget is available to pay for these contracts prior to execution.

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

(5) (a) The Purchasing and Contracts Division Manager or designee shall have 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 shall have 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 (\$50,000.00) should be obtained competitively by written quotes, except as provided within the 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 or RFP, except as provided within the Purchasing Code or the 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) shall be awarded by the Board of County Commissioners, except as otherwise provided within the Purchasing Code or this Administrative Code. The County Manager, Purchasing and Contracts Division Manager or designee shall have 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. The Purchasing and Contracts Division will be responsible for ensuring the contract amount does not exceed what the Board has approved and the scope of service is per the contract specifications.



(b) The County Manager is hereby further 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 further 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 shall 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 said funds to the United States Department of Housing and Urban Development.

(6) The County Manager, Purchasing and Contracts Division Manager or designee shall have the authority to approve and execute all change orders and amendments and to approve price escalation/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 contracts under TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00) and three percent (3%) for contracts TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00) and above. Amendments to contracts greater than these signature authority amounts must be approved by the Board of County Commissioners.

(7) The County Manager, Purchasing and Contracts Division Manager or designee shall have the authority to execute amendments to contracts to reflect a change to the company's name, due to assignments or re-organization of the firm. The County Manager, Purchasing and Contracts Division Manager or designee shall have authority to approve time extensions providing that the increase in cost, if any, are within the authority described above.

(8) The County Manager, Purchasing and Contracts Division Manager or designee shall have 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 piggy back 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.

(9) The Purchasing and Contracts Division Manager, with the concurrence of the County Manager, shall have the authority to settle individual claims under contract 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 which modify a contract, the original and revised total cost of which exceeds ONE HUNDRED THOUSAND AND NO/100 DOLLARS

(\$100,000.00), shall require Board of County Commissioners approval, unless otherwise specified herein. The Purchasing and Contracts Division Manager will notify the Board of settlements made under ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00). Terminations of those contracts that were Board awarded must go back to the Board for approval or denial.

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

### **3.555 PUBLIC NOTICE.**

(1) Public notice for the construction projects shall be given in accordance with Section 255.0525, Florida Statutes, and any future revisions. As of May 1, 2010, the current Statutes require public notice of the solicitation for goods, services over FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00) or construction projects more than TWO HUNDRED THOUSAND AND NO/100 (\$200,000.00) shall be given. Such notice shall include publication in a newspaper of general circulation and will be placed on the Internet. The public notice on the internet shall state the date and time of bid opening and RFP closing. Public notices shall satisfy all statutory public notice requirements.

### **3.556 SOURCE SELECTION.**

(1) The procurement of all goods, material, equipment, services and combinations of goods and/or services by or on behalf of the Board, including those transactions through which the Board shall receive revenue, in an amount equal to or in excess of the mandatory bid amount of FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00), shall 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/qualifications, or proposals submitted for competitive negotiations, as specifically provided in the Purchasing Code or the Administrative Code, except as otherwise provided herein, or by State or Federal law. Competitive bidding shall be 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.

(a) Types of solicitations used to compete the County's requirements are Request for Proposals (RFPs), Invitations for Bids (IFBs), and Request for Information (RFIs), which are defined in Chapter 220, Seminole County Code. Request for Quotations (RFQs) are generally used for requirements under FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00). Some methods of procurements, i.e., A+B method, incentives, Design Build are described in the County Manager's Policies. A Request for Qualification is an RFP without price as a criteria.

(b) Nothing in the foregoing shall prohibit the County from renewing purchase orders or contracts with vendors/contractors originally selected through a competitive selection process provided 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.



(c) The construction or improvement to a public building, a structure, or other public construction work that is estimated to have a cost of more than THREE HUNDRED THOUSAND AND NO/100 DOLLARS (\$300,000.00), must be competitively awarded to an appropriately licensed contractor. See *Section 255.20, Florida Statutes*, for exception to this rule.

(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) The procedure of procuring goods and services without a formal bidding process using other public and government entities' contract commonly called "piggybacking" is authorized pursuant to Chapter 287, Florida Statutes. This also includes piggybacks of the State of Florida contracts, GSA and other Federal government contracts.

(f) The County will comply with the Florida Department of Transportation (FDOT) Local Agency Program (LAP) Critical Requirements Checklist for Professional Services Certification (525-010-048) and any changes therein for the procurement of professional services under the Consultants Competitive Negotiations Act (Section 287.055, Florida Statutes) for all FDOT-funded construction projects. The County further resolves to comply with all other FDOT guidelines and requirements for the procurement of FDOT-funded construction projects.

(2) Cancellation of Invitations for Bids or Requests for Proposals: An Invitation for Bids, a Request for Proposal, or other solicitation may be canceled, or any or all bids or proposals may be rejected, in whole or in part by the Purchasing and Contracts Division Manager or designee, when it is for good cause and in the best interests of the County. Prior to bid opening/RFP closing, the Purchasing and Contracts Division Manager shall have the authority to cancel an IFB/RFP or postpone the date and/or time of bid submission or closing for good cause. The County reserves the right to accept or reject any and all proposals.

(3) Bid and Proposal Submission: Proposals must be received no later than the time and date and at the location specified for bid opening/RFP closing in the solicitation. Any proposal received later or at any other location than specified will not be accepted and shall be returned unopened to the bidder. It shall be the bidders' sole responsibility to ensure that their bid reaches the specified place for receipt of bids by the specified time. The County shall bear no responsibility for any failure of the U.S. Postal Service or other courier service to successfully deliver proposals to the County. Bidders/Proposers shall be allowed to withdraw their submittals at any time prior to bid opening, providing they show proper identification.

(4) Bid Opening/RFP Closing: Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the solicitation. All proposals shall be open to public inspection per Chapter 119, Florida Statutes, and Section 286.0113, Florida Statutes.

(5) Corrections, Additions to and Withdrawal of Bids:

(a) The following shall govern the correction of information submitted in an IFB when that information is a material factor in determining the responsiveness of the bid:

(i) 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 award. In such cases, the unit prices bid shall not be changed. When bidders quote in words and in figures on items on the bid form, and the words and figures do not agree, the words shall govern and the figures shall be disregarded. Any discrepancies in the proposal other than error in extension of unit prices will be sufficient to consider the proposal as non-responsive.

(ii) After bid opening, bidder shall 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 shall not be changed and such error must be readily apparent on the face of the bid form.

(iii) Nothing herein 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 specifications or conditions contained in the solicitation.

(b) A bidder who alleges a judgmental error of fact may not be permitted to withdraw his/her bid after bid opening. A bidder who alleges a nonjudgmental error of fact may be permitted to withdraw his/her 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 his/her bid without permission after bid opening, the Purchasing and Contracts Division Manager may suspend the vendor from receiving new orders 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.

**3.557 RESPONSIBLE BIDDER.** Information in a bid shall not necessarily be considered conclusive at the time of bid opening, except when the Invitation for Bids unequivocally states that the bid shall not be considered responsive unless the particular information is provided in the bid. The prospective contractor shall supply information requested by the County concerning the responsibility of such contractor. If such contractor fails to supply the requested information, the County shall base the determination of responsibility upon any available information or may find the vendor non-responsive if such information is not submitted within the time specified by the Purchasing and Contracts Division Manager. If a bidder or offeror who otherwise would have been awarded a contract is found non-responsive, a written determination of non-responsibility setting forth the basis of the finding shall be prepared by the Purchasing and Contracts Division Manager or designee. The unreasonable 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 shall be sent promptly to

the nonresponsible bidder or offeror. The final determination shall be made part of the contract file.

(1) The Purchasing and Contracts Division Manager or designee may determine that the information submitted concerning the responsibility of the bidder is so administratively inadequate as to reject the bid based on a lack of demonstrated bidder responsibility.

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

(3) A bid shall be considered responsive only if it conforms to the requirements of the Invitation for Bids concerning pricing, surety, insurance, specifications of the goods or services requested, and any other matter unequivocally stated in the Invitation for Bids as a determinant of responsiveness. A lack of conformity on these matters which is non-substantive in nature may be considered a technicality or irregularity which may be waived by the Purchasing and Contracts Division Manager.

### **3.558 PROPOSAL EVALUATION (RFP).**

(1) The County will make award to the proposal that meets the requirements and criteria set forth in the solicitation and whose award will, in the opinion of the County, be in the best interest of the County. Proposals shall be evaluated based on the requirements set forth in the solicitation. Criteria that will affect the price and be considered in evaluation for award shall 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.

(2) Factors to be considered in determining whether the standard of responsibility has been met include whether, in the County's determination, a prospective vendor/contractor has:

(a) 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;

(b) a satisfactory record of performance on similar projects;

(c) a satisfactory record of integrity;

(d) qualified legally to contract with the County; and



(e) 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.

(3) The solicitation for RFPs shall state the relative importance of price and other evaluation factors. The most responsive, responsible offeror whose proposal is determined to be the most advantageous to the County in accordance with the evaluation criteria contained in the RFP should be selected. Evaluation of offerors and/or proposals may be made in a multi-step selection or proposal process as set forth in the RFP or RFI. Discussions may be conducted with responsible offerors 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. Offerors shall be accorded fair and equal treatment 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 shall be permitted as way of clarification and to make minor changes to the scope.

### **3.559 AWARD.**

(1) Award shall be made in accordance to the criteria in the solicitation and it can either be to the lowest responsive and responsible bidder or the overall best value bidder whose proposal meets the requirements and criteria set forth in the solicitation. It shall be effective upon issuance of a purchase order, execution of a contract, or written notice of award by the Purchasing and Contracts Division Manager or designee. In the event only one bid is received, the County may award or negotiate with the sole bidder or rebid.

(2) 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 is authorized, when time or economic considerations preclude resolicitation, to negotiate an adjustment of the bid price and/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.

**3.5510 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. Should an emergency, sole source or proprietary situation exist, procurement must be made pursuant to procedures as outlined in 3.5517 of this Section and Section 220.41 of the Seminole County Code.

### **3.5511 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 shall 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 shall 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 shall be taken as required by the provisions of the law violated, or, if no specific action is required, then:

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

(i) The contract may be ratified and affirmed, provided it is determined that so doing is in the best interests of the County; or

(ii) The contract may be terminated and the entity awarded the contract shall 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 entity 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.

**3.5512 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.

**3.5513 SMALL PURCHASES/MISCELLANEOUS CONTRACTS (EXCEPT FOR PROFESSIONAL SERVICES (PS)) Consultant Competitive Negotiation Act (CCNA).** 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, provided, however, no purchase shall be artificially divided so as to constitute a small purchase under this Section. The mandatory bid amount shall be FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00). Written quotes shall be obtained 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 shall be obtained for purchases between FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00) and TEN THOUSAND AND NO/100 (\$10,000.00.) and a competitive environment should be utilized unless it is exempt from the competitive process under the Seminole County Code or the Seminole County Administrative Code.



Department/Offices 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 shall be made to the business offering the lowest acceptable quotation. The name of the business submitting a quotation, and the date and amount of each quotation, shall be recorded and maintained as a public record.

**3.5514 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 herein shall prohibit the County from deleting items within the Invitation for Bids and purchasing said 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 to the County. Sales Tax Recovery can be utilized for construction of new and renovated County facilities. 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, so as to 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 order that will be authorized by the Seminole County Purchasing and Contracts Division Manager or designee and said purchases shall be exempt from the County's Purchasing Code, preserving the sales tax exemption to the benefit of Seminole County.

**3.5515 DIRECT PAY.** Certain purchases, due to their very nature, are exempt from the competitive bid requirements. Items listed under Section 220.2(b), Seminole County Code, are exempt and User Department/Office can utilize the direct method and submit directly to the Finance Department.

**3.5516 CONTRACT CLAUSES AND THEIR ADMINISTRATION.** All County contracts for supplies, services and construction shall 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 the Seminole County Administrative Code.

**3.5517 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 must 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.

**3.5518 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 herein.

(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 shall be made under 3.5517 (Sole Source Procurement) of this Section.

**3.5519 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 adhere to the appropriate "Buy American" requirements, if any, of the Federal agency providing the assistance.

### **3.5520 COUNTY PROCUREMENT RECORDS.**

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

(2) Retention of Procurement Records: All procurement records shall 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**

**3.5521 PURPOSE.** To establish a policy for the proper processing of contracts, including contract compliance, which are entered into by the Board of County Commissioners or its authorized designees.

### **3.5522 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 is responsible for improving Countywide contract administration. In addition, the Purchasing and Contracts Division will assist individual Departments/Offices in complying with County Purchasing policies, procedures and code. It is the Department/Office'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 disputes resolution, proper closeout procedures and the strategic planning of the follow-on reprocurement efforts.

(4) In lieu of obtaining Board approval via 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/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/Office to monitor contract deliverables, expiration dates, due dates and milestone dates of agreements and work orders.

(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.

**3.5523 CONTRACT COMPLIANCE.** The Purchasing and Contracts Division will assist user Departments/Divisions in complying with contract administration code and procedures on all contracts. The Purchasing and Contracts Division will represent the County as a whole and will balance contracting interests of the County with those of



individual Departments/Offices. User Departments/Divisions and the Project Manager are responsible for contract compliance, specifically:

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

(2) **Contract Monitoring:** Contract monitoring shall consist of both fiscal and performance monitoring. Fiscal monitoring shall determine a contractor's financial consultants management abilities; performance monitoring shall determine a contractor's effectiveness in meeting contract objectives. All invoices must be processed by Department personnel in strict conformance of 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's/consultant's performance. This assessment will provide a justification for making renewal decisions. If the evaluation indicates substandard contractor/consultant performance, a plan for corrective action shall be drafted. Alternatively, the decision can be made not to renew the contract and obtain new proposals from qualified suppliers.

(4) **Retroactive Contracts:** 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/Office's responsibility to plan accordingly to ensure 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**

**3.5524 SURETY BONDS.** The Purchasing and Contracts Division is responsible for insuring that surety bonds are maintained. Before commencing work on the construction of a public building or repairs upon a public building or public work, the contractor shall deliver to the County a payment and performance bond which will be recorded in the public records of the County. The bonds must state the name and principal business address for both the principal and the surety and must contain a description of the project sufficient to identify it. Performance bonds for sub-contractors do not need to be recorded in the public records of the County.

#### **3.5525 BID SECURITY.**

(1) **Requirement for Bid Security:** Bid security shall be required for all competitive sealed bidding for capital improvement construction contracts when the price is estimated to exceed TWO HUNDRED THOUSAND AND NO/100 DOLLARS (\$200,000.00) or when the Purchasing and Contracts Division Manager or designee deemed appropriate. Bid security shall be 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 shall be indicated in the Contract Documents.

(3) Rejection of Bids for Noncompliance with Bid Security Requirements: When the Invitation for Bids 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 shall be brought against the bidder or the bid security.

### **3.5526 CONTRACT PERFORMANCE BONDS AND PAYMENT BONDS.**

(1) As determined by the Purchasing and Contracts Division Manager or designee or mandated by Florida Statutes, the following bonds or security shall be delivered to the County and shall become binding on the parties upon the execution of the contract:

(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 shall 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 shall 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.

**3.5527 REQUIREMENTS.** Sureties for all bid bonds, performance bonds and payment bonds must be included on the U.S. Department of Treasury listing and the bond amount shall not exceed the maximum amounts specified therein unless otherwise stipulated in the Invitation for Bids or RFP.

## **V CONTRACT EVALUATION**

**3.5528 PUBLIC ADVERTISEMENT OF NEED FOR SERVICES.** All requirements for CCNA Professional Services, as defined in Section 287.055, Florida Statutes, shall be publicly advertised at a minimum of once a week in a newspaper of general paid circulation or as otherwise indicated in Florida Statutes. Allowable exceptions to public advertisement include:

(1) Projects involving a public emergency, pursuant to Section 220.41, Seminole County Code.

(2) When the basic construction of the completed project is estimated to be less than THREE HUNDRED TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$325,000.00) or defined as category five in Section 287.017, Florida Statutes, whichever is greater.

(3) When the fee for professional services for a planning or study activity is estimated to be less than THIRTY-FIVE THOUSAND AND NO/100 DOLLARS (\$35,000.00) or defined as category two in Section 287.017, Florida Statutes, or as may be amended, whichever is greater.

**3.5529 CONTINGENT FEES.** All contracts shall contain a prohibition against contingent fees as required by Section 287.055(6), Florida Statutes.

**3.5530 COMPETITIVE SELECTION.**

(1) (a) Recommendations for appointment of evaluation committee members who have knowledge and interest in the project should be suggested by the Project Manager for acquisition of professional and consultant services under an RFP or PS. The evaluation committee should consist of: Division Manager or designee, Project Manager, a staff member outside the requesting Division, and a staff member. The committee should be appointed 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 should be on the evaluation committee. If the contract value exceeds ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) per year, the County Manager or designee will be part of the evaluation committee.

(b) For evaluation committees for the selection of marketing/advertising firms to promote Seminole County tourism or Seminole County sports facilities and for evaluation committees for the selection of firms to provide sales, business development and event management services for Seminole County sports, in addition to the County employees who serve, two (2) of the evaluation committee members may be members of the Seminole County Tourist Development Council, elected for said task by the Council from its membership. As participants on the evaluation committee, the Tourist Development Council members will be required to comply with all of the County evaluation processes as stated in the County Manager's Policies and Procedures Manual, Section 60, the Seminole County Administrative Code, the Seminole County Code and the Florida Statutes related to evaluation of competitive procurements, including but not limited to completing disclosure forms, complying with public records release requirements, code of silence requirements and required participation in all meetings of the evaluation committee.

(2) Notification of Need for Services:

(a) The evaluation committee shall determine specific qualifications necessary for the project consultant and specify the form for submittal of qualifications by prospective consultants. The architect/engineer evaluation criteria shall be the sole

means of "short listing" firms who have submitted qualification packages and shall be provided to each interested party prior to their submittal.

(b) For publicly announced requirements, the Department/Office will provide the Purchasing and Contracts Division a request for contractual services and scope of services, evaluation criteria and the Purchasing and Contracts Division will publish the notice in a newspaper of general circulation in Seminole County and on the Internet and shall indicate how interested consultants may apply for consideration. Trade journals or trade magazines may also be utilized for public advertisement. The Purchasing and Contracts Division will administer the closing of the proposals and the selection/negotiation committee meetings.

(c) Florida Statutes require reasonable notice to the public, such as evaluation/selection/negotiating sessions with consultants. At times these evaluation and negotiation meetings are exempt under Section 286.0113, Florida Statutes. If the meeting is non-exempt, the notice will include the committee's name and purpose, location of meeting, date and time of meeting. A copy of the meeting notice shall be posted in the Purchasing and Contracts Division and on the County's web site, in the Bid tabulation remarks. Part of the notice of public meeting shall include the statement: "Persons with disabilities needing assistance to participate in any of these proceedings should contact the Human Resources Division 48 hours in advance of the meeting. If a person decides to appeal any decision made at this meeting, they will need a record of the proceedings, and, for such purpose, they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based, per Section 286.0105, Florida Statutes." The Chairman of the meeting will ensure a record of the meeting is maintained, either through a written or recorded method and in accordance with the Public Records Law of the State of Florida. The custodian of the record for these meetings is the Purchasing and Contracts Division.

(3) Evaluation of Consultants:

(a) The County shall make a finding that the firm or individual to be employed is duly qualified to render the required service. The evaluation committee shall review statements of qualification and performance data submitted in response to the public announcement and shall select, in order of preference, no fewer than three (3) firms deemed to be the most highly qualified, if at least three (3) firms respond to the announcement. If there are less than three (3) firms responding and after due diligence and searching it is decided every effort was made to meet Section 287.055, Florida Statutes, the County will interview all respondents and proceed with the evaluation process. Consultant evaluation criteria shall include, but may not be limited to: 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; recent, current and projected workloads; and volume of work previously awarded, with the object of effecting an equitable distribution of contracts among qualified firms, provided such equitable distribution does not violate the principle of selection of the most highly qualified firms.



(b) The evaluation committee may conduct presentations and/or shall conduct some type of discussions with a minimum of three (3) firms (if three firms submitted) pertaining to the firms' qualifications, approach to the project, and ability to furnish the required service. Each evaluation committee member shall rate each firm/individual by assigning the top firm number one (1), the second ranked firm number two (2), etc. At times, alternate procedures stated in the County Manager's Policies and Procedures may apply.

### **3.5531 CONTRACT NEGOTIATION.**

(1) The negotiating committee shall be appointed by the Department Director and the Purchasing and Contracts Division Manager. The committee shall be comprised of the Division Manager or designee and two (2) staff members of County government having knowledge and interest in the project. When professional services sought are over ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) or more, a Florida Certified Negotiator shall sit on the negotiating committee. Upon Board direction, the negotiating committee shall negotiate a contract with the most qualified firm for professional services for compensation which is determined to be fair and reasonable. Retainage for professional services is at the discretion of the Project Manager and shall be stated on the Contract Services Request form for the request of a new master agreement or work order to an existing master agreement.

(2) Detailed discussions must be held by the firm and the County to clearly establish the scope of the project and the exact services to be performed by the Consultant. Such negotiations are usually successful. However, should the two parties fail to agree upon the level of cooperation, negotiations with the first firm are terminated and negotiations are commenced with the second ranked firm. If again unsuccessful the process is repeated with the next highest ranked firm. This process is continued until a mutually agreeable contract is concluded or the project is abandoned or resubmitted.

(3) When required by Florida Statutes or at the direction of the Purchasing and Contracts Division Manager, 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. Any contract requiring this certificate shall contain a provision that the original contract price and any additions shall be adjusted to exclude any significant sums by which the County determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one year following the end of the contract.

(4) 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 contract language.

**3.5532 RESERVATION OF AUTHORITY.** 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.

## VI DEBARMENT OR SUSPENSION

**3.5533 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, provided that the Board shall have the authority to waive or remove such suspension or debarment.

**3.5534 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 its debts or assigns over its estate or effects for payment thereof, or has a receiver or trustee appointed over its property; or
- (7) Vendor commission or 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.

**3.5535 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 Bids, 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 shall be removed immediately upon written notification and proof of final court disposition from the vendor to the County.

**3.5536 DECISION.** After the Purchasing and Contracts Division Manager has determined he/she has cause to suspend or debar a vendor and has the concurrence of the County Attorney's Office, he/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.

**3.5537 PUBLIC ENTITY CRIME.** Any vendor who has been convicted of a public entity crime as defined by Section 287.133, Florida Statutes, shall not be able to transact business with the County to the extent as specified in Section 287.133(3)(a), Florida Statutes.

**3.5538 FINALITY OF DECISION.** The suspension or debarment shall be final and conclusive unless the suspended or debarred vendor initiates protest proceedings within thirty (30) business days after the date of notification.

## **VII PROTESTS, APPEALS AND REMEDIES**

### **3.5539 PROTESTS.**

(1) Right to Protest: Only bidders that submit proposals are eligible to submit a protest after Bid opening or Proposal closing. Once the 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 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., local time, five (5) business days after the posting date of the award recommendation on the internet, unless the aggrieved person did not know or could not, with the exercise of diligence, have known of the facts giving rise to the protest prior to any of the aforementioned events. The aggrieved person has the burden to show he or she did not know and could not, with the exercise of diligence, have known of the facts giving rise to the protest. The bidder, offeror or contractor has the responsibility to contact the County and request the award recommendation results. Failure to contact the County for the award recommendation results to determine if a bid protest is warranted is

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 shall: identify the protesting party and the solicitation involved; include a clear statement of the grounds on which the protest is based; refer to the statutes, laws, ordinances, or other legal authorities which the protesting party deems applicable to such grounds; and, specifically request the relief to which the protesting party deems itself entitled by application of such authorities to such grounds. The protesting party shall submit a hard copy of the formal written protest to the Purchasing and Contracts Division Manager or designee within the timeframe above. All exempt proposal and procurement information pertaining to the solicitation/award that is being protested may be requested by the protesting vendor at time of protest.

(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 item (3). Failure to file a formal written protest within the time period specified shall result in relinquishment of all rights of protest by the vendor and abrogation of any further bid protest proceedings.

(6) General: These protest procedures shall be the sole remedy for challenging an award of bid or proposal. Bidders and proposers are prohibited from attempts to influence, persuade or promote through any other channels or means. Such attempts shall be cause for suspension in accordance with the Seminole County Code and the Seminole County Administrative Code applicable to Purchasing.

(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 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 shall attempt to resolve the protest in a fair and equitable manner, and shall render a written decision to the protesting party within thirty (30) business days after the date of receipt of the protest.

(9) Appeal Process: The Purchasing and Contracts Division Manager's decision shall be final and conclusive unless, within five (5) business days of receipt of the written decision, the protesting party delivers a written notice of appeal to the Purchasing and Contracts Division Manager with an Appeal Bond. An advisory appeal committee, comprised of three (3) County Representatives, other than the Purchasing and Contracts Division Manager, appointed by the user Department Director and County Manager or designee, shall have the authority to review the appeal and make recommendations to the County Manager. The Appeal Committee shall conduct a hearing where the aggrieved person shall be given the opportunity to show why the decision of the Purchasing and Contracts Division Manager should be modified. The Appeal Committee shall render a written recommendation within thirty (30) business days from the date of the written notice of appeal. The formal rules of civil procedure and





evidence will not be applied. The Appeal Committee shall render a final written recommendation to the County Manager. The County Manager shall 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 then it will be presumed that the County Manager concurs in the Appeal Committee's decision and the decision of the Appeal Committee shall be the final and conclusive administrative action.

(10) Appeal Bond: Any person who files an action appealing a decision shall 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 shall be conditioned upon the payment of all costs which 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 shall recover all costs and charges which shall be included in the final order or judgment, excluding attorney's fees. Upon payment of such costs and charges by the person appealing the decision, the bond, cashier's check, or money order shall be returned to him. If the person appealing the decision prevails, he shall recover from the County all costs and charges which shall be included in the final order of 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.

### **3.5540 CONTRACT CLAIMS.**

(1) Decision of the Purchasing and Contracts Division Manager: All claims by a contractor against the County relating to a contract shall 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 shall be issued in writing, and shall be mailed or otherwise furnished to the contractor. The decision shall state the reasons for the decision reached, and shall 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 shall 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, comprised of the user Department Director or Division Manager and other County Representatives, shall have the authority to review the appeal and render a written recommendation to the County Manager. The Appeal Committee shall conduct a hearing where the aggrieved person shall be given the opportunity to show why the decision of the Purchasing and Contracts Division Manager should be modified. The Appeal Committee shall render a written recommendation within sixty (60) business days from the date of the written notice of appeal and the County Manager shall render a final decision within five (5) business days from the date of the recommendation. If no decision is rendered within this time frame then it will be presumed that the County Manager concurs in the Appeal Committee's decision and the decision of the Appeal Committee shall be the final and conclusive administrative action.

### **3.5541 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 shall schedule a hearing before the Board of County Commissioners. The aggrieved person shall 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 shall be the final and conclusive administrative action.

## **VIII PURCHASING CARD**

**3.5542 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 "Purchase 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 and services are 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 "Purchase 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 allow 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 "Purchase 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 Purchase 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 purchase 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 purchase cards and for travel usage must be justified in writing and approved by the cardholder's Department Director. Purchase Cards will be issued by name to employees who have been approved.

(d) Each transaction may be comprised 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 SHALL NOT be used to purchase fuel, oil, personal items, telephone calls, or tangible personal property as defined by Florida Statute, exception is authorized by travel card.

(h) The purchasing card SHALL 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 Purchase Cards:** The Purchasing and Contracts Division has four (4) purchase cards designated as “Emergency Purchase 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 purchase 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 purchase cards must follow procedures outlined in the Seminole County Administrative Code. However, during declared emergencies, emergency purchase 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 purchase card during emergencies.

(5) **Special Purchase Card:** A special purchase 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 Finance, and payment of certain Purchase Orders will be accomplished by the Purchasing and Contracts Division instead of issuing a check by Finance. 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) **Purchase Card Program Internal Controls:**

(a) The Purchase 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 County Finance account allowing access to the issuing Bank’s database. This will allow County Finance to view cardholder information and statements online.

(b) County Finance will review each statement and supporting documentation. County Finance will contact cardholders directly and attempt to resolve any statement discrepancy found. If unable to resolve the issue with the cardholder directly, County Finance 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, County Finance 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.

**3.5543 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 shall 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.

## **IX ETHICAL CONSIDERATION**

### **3.5544 SANCTIONS.**

(1) Ethics in Public Contracting: No employee, officer, or agent of the contractor can 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 therein applies to contract compliance. A conflict can exist whenever a contractor's/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 shall constitute a major offense under Seminole County Personnel Policies and an employee shall be subject to the sanctions provided therein 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 the Seminole County Administrative Code.

## **X SMALL BUSINESS/MINORITY/WOMEN**

**3.5545 SMALL BUSINESS/MINORITY/WOMEN/ENTERPRISES.** To facilitate increased participation from small business enterprises including minority and women owned businesses, the Purchasing and Contracts Division will:

(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 which are intended to educate, certify and/or promote a greater participation of small business enterprises, including minority and women owned businesses.

## **XI DESIGN/BUILD CONTRACTS - Reserved**

**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