

Revisions to the County's Purchasing Code

Lead Departments: Purchasing / Facilities Development & Operations (FDO)

IST Oversight Committee
February 15, 2024

Background

- The current Purchasing Code (Code) was enacted in 2015 by means of Ord. 2015-004, which in turn repealed and replaced Ord. 2005-062 (as amended by Ord. 2008-009 and 2010-010).
- The current Code was revised in 2018 (Ord. 2018-022) to incorporate the necessary references to the then recently adopted Equal Business Opportunity ordinance.
- Approximately 5 years ago, Staff started working on revisions to the Code; the proposed ordinance to revise the Purchasing Code reflects historical lessons learned and input gathered from all County departments.

Substantive Changes: General

- Added language to:
 - allow for the Code to be referred to as either the “Purchasing Code” or the “Procurement Code”;
 - to clarify that departments must only request procurements that are fully budgeted and appropriated by the Board of County Commissioners (BCC);
 - clarify that the Code does not apply to procurement governed by the Property and Real Estate (PREM) Ordinance; and
 - to indicate that the generally accepted principles of public procurement are to be adopted and implemented.

Substantive Changes: Exemptions

- Clarified:
 - that agreements with non-profits or government entities that are exempt from the Code are still subject to the PREM Ordinance;
 - exemptions for subscriptions and copyrighted material;
 - exemptions for training, events, conferences, summits, conventions, conference or programs of specific nature are subject to the approval of the Purchasing Director;
 - that “recreational uses” includes “sports league management”;
 - types of legal services;

Substantive Changes: Exemptions (cont.)

- Clarified:
 - that sponsorships are exempt but subject to County procedures;
 - the Consultants Competitive Negotiation Act (CCNA) exemption;
 - that the Purchasing Director must approve department PPMs on exempt purchases; and
 - that exempt purchases above the Mandatory Bid Amount must be approved by the Purchasing Director or BCC, as applicable.

Substantive Changes: Exemptions (cont.)

- Moved:
 - Decentralized Purchase Order (DPO) to be under “Alternate Source Selection”.

- Added exemption for:
 - grant funded payments under the federal micro purchase;
 - pilot programs for fuel/energy;
 - pharmaceuticals and medical supplies to be administered by County departments; and
 - enhancements to proprietary software.

Substantive Changes: Exemptions (cont.)

- Deleted exemptions for:
 - procurement for constitutional officers;
 - procurement under the PREM Ordinance; and
 - concessions at airport facilities.

Substantive Changes: Definitions

- Clarified:
 - Purchase Order (to list the types used by the County);
 - Request for Information (to clarify its purpose as a non-binding, non-competitive process);
 - Request for Proposals (for conciseness);
 - Request for Quote (to indicate that price is the determining factor);
 - Resource Manager (to state it is a joint responsibility and training requirements);
 - Construction (and the authority of the Procurement Director to refer construction-related requests for procurement to a Construction Department);

Substantive Changes: Definitions (cont.)

- Clarified:
 - Invitation for Bid (to indicate that price is the determining factor);
 - Responsive Bid, Quote, Submittal or Response (for conciseness); and
 - Services (to indicate that construction is a type of services).

- Added defined terms:
 - Centralized Purchase Order
 - Cone of Silence
 - Consultant/Contractor/Supplier/Vendor
 - Contract Notice Purchase Orders

Substantive Changes: Definitions (cont.)

- Added defined terms:
 - Contract Renewal
 - Contract Review Committee
 - Direct Special Payable Purchase Order (SPO)
 - Exempt Purchase Order (EPO)
 - Exempt Purchase
 - Invitation to Negotiate
 - Notice of Award Recommendation
 - Pcard
 - Procurement
 - Utility Services

Substantive Changes: Definitions (cont.)

- Revised definitions:
 - Decentralized Purchase Order (DPO) to **raise amount from \$5,000 to \$10,000.**
 - Mandatory Bid or Proposal Amount to **raise amount from \$100,000 to \$150,000.**

Substantive Changes: Definitions (cont.)

- Deleted unused terms:
 - Glades Business
 - Inspector General Fee
 - Living Wage Ordinance
 - M/WBE
 - Professional services
 - Vendor

Substantive Changes: Organization

➤ Clarified:

- the duties of the Purchasing Director to include records management, vendor onboarding, pcard program, establishing training and certification standards, and assisting departments with Contract Administration; and
- the authority of the Construction Departments to follow statutory provisions regarding construction contracts and establish necessary procedures for procurement of same.

Substantive Changes: Organization (cont.)

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➤ Added:

- Procurement Department will conduct vendor onboarding, record management, and manage the pcard program; and
- authority for the Director of Procurement (and Construction Departments Directors) to terminate contracts (exempt included) of any amount, for or without cause.

Substantive Changes: Organization (cont.)

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- Increased:
 - Award of contracts by the Procurement Director (and Construction Department Directors) **from less than \$200,000 to less than \$300,000.**
 - As a result, the BCC will approve contracts \$300,000 and over (currently it is \$200,000 and over).
 - For context: the \$200,000 threshold has been in place since 2005; application of the Engineering News Record Building Cost Index translates into \$369,640 (in 2023).

Substantive Changes: Source Selection

- Clarified:
 - language regarding the BCC's ability to renew contracts procured through competitive bidding or alternate source selection;
 - language regarding late or incorrectly delivered bids being deemed non-responsive;
 - the term Bid Opening (i.e., when and records management); and
 - language for Bid Cancellation (i.e., triggers and authority to cancel).

Substantive Changes: Source Selection (cont.)

- Added:
 - language to clarify the authority of the Construction Department Directors to make monetary and time changes to construction contracts in accordance with County policies and procedures;
 - section to address Termination of Contracts;
 - Invitation to Negotiate as a Formal Competitive Proposal process;
 - DPO as an alternate source selection;
 - requirement to post a Notice of Intent to Designate a Sole Source;
 - simplified the requirements for Piggyback Contracts;

Substantive Changes: Source Selection (cont.)

➤ Added:

- language requiring posting of solicitations on the County's VSS website and to allow for additional public notice at the discretion of the Procurement Director;
- language for correction of minor irregularities in bids;
- section to address Execution of Contracts (i.e., cross-reference to Sec. 2-53(d)-(h) and 2-54(f)(4));
- language to clarify that if a contract is terminated within the initial award period, then the County may award to the next low bidder;

Substantive Changes: Source Selection (cont.)

- Added:
 - that pre-qualifications can be used for order over the Mandatory Bid or Proposal Amount as long as such as advertised on VSS;
 - Prequalification of Contractors by Construction Departments for Construction Services;
 - language to allow the Procurement Director to use IFB, RFP, or ITN tools even if under the Mandatory Bid/Proposal amount; and
 - that the Procurement Director will develop policies and procedures for pcard usage by County departments.

Substantive Changes: Source Selection (cont.)

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- Increased:
 - Mandatory Bid or Proposal Amount **from \$100,000 to \$150,000**;
 - For contracts approved by the Director of Procurement: the authority of the Director of Procurement to approve contract increases **from 10% to 15%** (with the County Administrator's approval to go over 10%);
 - For contracts approved by the BCC and which are less than \$300,000: the authority of the Director of Procurement to approve contract increases **from 10% to 15%** (with the County Administrator's approval to go over 10%);

Substantive Changes: Source Selection (cont.)

- Increased:
 - For contracts approved by the BCC between \$300,000 and \$500,000: the authority of the CRC to approve increases **up to 15%**;
 - For contracts approved by the BCC or the Director of Procurement, the authority for the Director of Procurement to extend the contract time **from 3 months to 6 months**; and
 - The requirements for BCC approval/ratification of Emergency Purchases **from \$200,000 to \$300,000**.

Substantive Changes: Source Selection (cont.)

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- Deleted:
 - language that required all conditions to remain unchanged, including SMWBE when extending term or increasing expenditure; and
 - the term Small Purchases (covered under Informal Solicitations).

Substantive Changes: Protested Awards

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- Clarified:
 - that protest must be received by the Procurement Director within the specified time and that the date/time stamp of the Procurement department controls; and
 - the section regarding the BCC accepting or rejecting the Special Master recommendation.

Substantive Changes: Protested Awards (cont.)

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- Added:
 - requirement for a protest bond to be filed with the initial protest (rather than only at the time of request of a special master); and
 - language regarding when the bond will be returned and when it will be forfeited.
- Increased:
 - the protest bond based on a sliding scale **from \$1,500 to \$3,000**.

Substantive Changes: Protested Awards (cont.)

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- Redrafted:
 - the section related to authority of the Special Master.
- Deleted:
 - no longer applicable language regarding M/WBE ordinances.

Substantive Changes: Suspension and Debarment

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➤ Added:

- language authorizing the Procurement Director to suspend or debar vendors under exempt contracts and under contracts governed by the PREM Ordinance.

➤ Redrafted:

- process for vendor protest of suspension or debarment.

Substantive Changes: New Sections

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- Ethical Standards in Procurement
- Construction Services
- CCNA Services
- Automation Permitted
- Unsolicited Proposals

Effective Date

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- If adopted, Staff is recommending that the new Purchasing Code be effective in **180 days** to allow time for the associated revisions to County policies and procedures.

Next Steps

- Item to be presented to the Board during the February 27, 2024 Workshop meeting.
- Staff will request direction from the Board if to pursue the proposed revisions to the Purchasing Code; and if to advance the proposed ordinance to the next procedural step: preliminary reading and public hearing.
- If the Board directs Staff to proceed, we will recommend the new Purchasing Code be effective in 180 days to allow time for the associated revisions to County policies and procedures.

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