

**Policy
II**

Procurement Of Commodities and Contractual Services

Number: 88-05

I. PURPOSE

To establish policies for the procurement of commodities and contractual services by the District.

II. STATEMENT OF POLICY

Pursuant to subsection 373.083(1), Florida Statutes, the Governing Board is authorized to contract with public agencies, private corporations, or other persons. In furtherance of the authorization prescribed in subsection 373.083(1), Florida Statutes, the Governing Board recognizes that: (1) fair and open competition is a basic tenet of public procurement; (2) such competition reduces the appearance and opportunity for favoritism and inspires public confidence that commodities and contractual services are procured equitably and economically; and (3) documentation of the acts taken and effective monitoring mechanisms are important means of curbing improprieties and fostering public confidence in the process by which commodities and contractual services are procured. It is, therefore, the policy of the Governing Board that, unless otherwise authorized by law or this policy, all procurement actions shall be awarded by competitive procurement procedures.

III. DEFINITIONS

- A. **Annual Contract** - means a contract that is for an initial term of one year, which may be extended for up to a total of three years upon exercise of an option to renew by the District, unless otherwise authorized by the Governing Board.
- B. **Designee** - except as otherwise specifically provided herein: (i) the Assistant Executive Director, or (ii) in the absence of the Executive Director and the Assistant Executive Director, the staff member designated by the Executive Director or the Assistant Executive Director to serve as the acting Executive Director.
- C. **Procurement** - the purchase of commodities and/or services, including, but not limited to: all forms of written agreements, purchase orders, purchasing card (p-card) transactions, revenue agreements, memoranda of understanding that involve procurement activity, work orders, and contract amendments, change orders, renewals, and exemptions. Procurement does not include: (1) cost-sharing or grant programs and (2) Pass-through Funding Agreements.

- D. **Formal Procurement** - procurement actions that are subject to Formal Competitive Solicitation procedures under the terms of this policy.
- E. **Informal Procurement** - procurement actions, other than exempt procurements, where the total procurement amount is \$100,000 or less per fiscal year. "Informal Procurement" also means procurement of professional services described in section 287.055, Florida Statutes, where the procurement amount is less than the thresholds established therein for public announcement and qualification procedures.
- F. **Formal Competitive Solicitation** - an Invitation for Bids (IFB), Request for Proposals (RFP), Request for Qualifications (RFQ), Invitation to Negotiate (ITN), or such other procurement methodologies as may be established by the Executive Director through an administrative directive to provide a competitive process for procurement actions.
- G. **Emergency Procurement** - a procurement necessitated by an immediate danger to the public health, safety, or welfare, or other substantial loss to the District, where delay incident to Competitive Procurement would be contrary to the best interest of the District.
- H. **Sole Source Procurement** - the procurement of goods or contractual services that are available from only one source or from the one source determined as best meeting the requirements of the District after a careful comparative evaluation of the marketplace.
- I. **Pass-through Funding Agreement** - an agreement whereby funds originating from a governmental entity are provided to another entity through the District, excluding the following funding sources: Florida Forever, Water Management Land Trust Fund, and District Ad Valorem funds.
- J. **Purchase Order** - a standard form contract for commodities or services that is issued by the Department of Finance and Administration.
- K. **Revenue Agreement** - any agreement or grant whereby funds are provided to the District.

IV. GENERAL PROVISIONS

- A. In addition to procurement actions subject to section 287.055, Florida Statutes, and unless otherwise stated herein, all procurement actions in excess of \$100,000 per fiscal year shall be Formal Procurements.
- B. The Executive Director shall establish procurement procedures to implement this policy, including specifying the standards and methodologies to be applied for procurement actions, and documentation, monitoring and internal controls. These procedures are currently set forth in detail in Administrative Directive 88-06, Procurement of Commodities and Contractual Services.

- C. Procurements shall not be divided or subdivided in order to circumvent the Formal Procurement procedures; nor shall Informal Procurements be amended beyond the \$100,000 per fiscal year threshold.
- D. Emergency Procurement
 - 1. If the Executive Director, or Designee, determines that circumstances require an Emergency Procurement, the District may proceed with the procurement action necessitated by the emergency without Formal Competitive Solicitation.
 - 2. The Executive Director, or Designee, shall notify the Governing Board Chair or the Finance Committee Chair, or, in the event of their unavailability, shall notify the Governing Board Vice Chair, as soon as possible before or after the Emergency Procurement. A written determination of the basis for the Emergency Procurement shall be filed with the District Clerk.
- E. Exempt Procurement

The following actions are exempt from Formal Competitive Solicitation. Nevertheless, such actions may be competitively solicited at the direction of the Governing Board, Executive Director, or designee.

- 1. Informal Procurements.
- 2. Sole Source Procurements.
- 3. Emergency Procurements
- 4. Purchases of used equipment.
- 5. Purchases of State or Federal surplus equipment.
- 6. Procurements made pursuant to inter-governmental cooperative purchasing methods, whereby a governmental procurement unit enters into an agreement for commodities or services that allows other governmental procurement units to contract or purchase from the selected vendor under the same terms and conditions. This includes, but is not limited to, State of Florida and General Services Administration contracts and purchases.
- 7. Purchases of parts, repairs, upgrades, modifications, or maintenance services for vehicles or other equipment from the original equipment manufacturer, seller, or an authorized repair facility.
- 8. Subscriptions for periodicals.
- 9. Books and other copyrighted materials.
- 10. Training and educational commodities and related services.
- 11. Purchases in the best interest of the District due to opportune price discounts, sales or bulk purchases, with the approval of the Executive Director.
- 12. Legal services, including paralegals, expert witnesses (including appraisal services), and court reporters.

13. Rental of rooms and facilities for training and meetings (including meals furnished therewith).
14. Artistic services, including advertising.
15. Catering and entertainment services.
16. Maintenance and licensing of computer software.
17. Tower rentals for signal transmission.
18. Franchise utility services or other utility services where no competition is available.
19. Medical and health services, both physical and mental, involving examination, diagnosis, treatment, prevention, medical consultation, or administration.
20. Services from P.R.I.D.E. and R.E.S.P.E.C.T., as well as from federal, state, and local governmental entities.
21. Services from universities and colleges, including community colleges.
22. Procurement actions related to an existing contract following the breach, or early termination for cause, of the existing contract and necessary for either uninterrupted performance of the work or mitigation of damages.

- F. Procurement actions may include language that reserves the District's right to:
1. Reject any and all Formal Competitive Solicitation responses;
 2. Waive any minor irregularities in any otherwise responsive submittal;
 3. Terminate procurements without cause;
 4. Include a provision in the contract forfeiting the vendor's right to any remaining amount due under the contract for failure to submit final invoices within the timeframes established in the contract; or
 5. Establish such other requirements and limitations as may be in the best interest of the District and are consistent with this policy.
- G. The Governing Board shall approve all procurement actions that have not been delegated as provided herein.
- H. All procurement actions above \$25,000, which are approved and executed by the Executive Director, or Designee, shall be reported to the Governing Board at its next regularly scheduled meeting.
- I. Work orders under an annual contract and change orders to an existing contract are not separate procurement actions, such that competitive solicitation procedures apply.

V. DELEGATION

A. The Executive Director, or Designee, is authorized to approve and execute procurement actions of \$100,000 or less per fiscal year, or as authorized in sections 40C-1.701 et seq., Florida Administrative Code, with the exception that the hiring of an external auditor to conduct the annual financial audit required by section 218.39, Florida Statutes, Governing Board Counsel, or Real Estate Counsel shall be subject to Governing Board approval. For the purposes of Section V of this policy, with the exception of procurement actions for professional services pursuant to Chapter 40C-1, Part VII, Fla. Admin. Code, "Designee" means: (i) the Assistant Executive Director, or (ii) in the absence of the Executive Director and the Assistant Executive Director, the staff member designated by the Executive Director or the Assistant Executive Director to serve as the acting Executive Director, or (iii) when authorized by the Executive Director through an administrative directive, and when the procurement action is not in excess of \$50,000 per fiscal year or subject to section 287.055, Florida Statutes: Department and Office Directors, Assistant Department and Office Directors, Divisions Directors, and Assistant Division Directors; or (iv) when authorized by the Executive Director through an administrative directive, work orders and change orders to work orders, inclusive of time extension, for annual contracts, up to the amount of the annual contract approved by the Governing Board: Department and Office Directors, Assistant Department and Office Directors, Divisions Directors, and Assistant Division Directors.

B. Change Orders and Amendments

Any change order or other amendment to a contract that will cost no more than \$100,000, or 10% of the original contract amount, whichever is greater, may be approved and executed by the Executive Director, or Designee. When multiple change orders or other amendments are made to a contract, the dollar threshold established above shall serve as a cumulative limit on the authority of the Executive Director, or Designee.

C. Annual Contracts

1. The Executive Director, or Designee, is authorized to approve and execute all work orders and change orders to work orders, inclusive of time extension, for annual contracts up to the amount of the annual contract approved by the Governing Board.
2. The Executive Director, or Designee, is authorized to approve and execute any renewal of an annual contract for a renewal amount of \$100,000 or less per fiscal year.
3. Unless otherwise authorized by the Governing Board, annually renewable procurement actions shall be no longer than three years in duration.

D. Revenue Agreements

The Executive Director, or Designee, is authorized to approve and execute any Revenue Agreement up to the amount approved by the Governing Board in its budget. Agreements for unbudgeted revenues may be executed by the Executive Director contingent upon Governing Board approval of a budget amendment.

E. Pass-Through Funding Agreements

The Executive Director, or Designee, is authorized to approve and execute any Pass-through Funding Agreement up to the amount approved by the Governing Board in its budget. Pass-through Funding Agreements that are unbudgeted may be executed by the Executive Director contingent upon Governing Board approval of a budget amendment.

F. Purchase Orders

The Executive Director, or Designee, is authorized to execute purchase orders up to \$100,000. For purchase order purposes only, the term “Designee” means: (i) the Assistant Executive Director; (ii) in the absence of the Executive Director and the Assistant Executive Director, the staff member designated by Executive Director or the Assistant Executive Director to serve as acting Executive Director; (iii) any other District employee authorized by the Executive Director to execute purchase orders through an administrative directive.

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